

SESSION LAWS OF MISSOURI

Passed during the

NINETY-FOURTH GENERAL ASSEMBLY

First Extraordinary Session, which convened at the City of Jefferson,
Monday, August 20, 2007, and adjourned Thursday, August 30, 2007

Second Regular Session, which convened at the City of Jefferson,
Wednesday, January 9, 2008, and adjourned May 30, 2008.

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Published by the

**MISSOURI JOINT
COMMITTEE ON
LEGISLATIVE RESEARCH**

In compliance with Sections 2.030 and 2.040,
Revised Statutes of Missouri, 2007

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HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table* and the *Table of Sections Affected by 2007 Legislation* from the First Extraordinary Session, and the *Table of Sections Affected by 2008 Legislation* from the Second Regular Session of the 94th General Assembly.

The following pages contain the text of the bills from the First Extraordinary Session.

The text of all 2008 House and Senate Bills and the Concurrent Resolutions appear next. The appropriation bills are presented first, with all others following in numerical order.

A subject index is included at the end of this volume.

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Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2007. — Legislative Research to provide for printing and binding of laws. — The joint committee on legislative research shall annually collate, index, print, and bind all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2007. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of the session laws pursuant to section 2.030, giving the date of the approval or adoption thereof. The joint committee on legislative research shall headnote, collate, index the laws, resolutions and constitutional amendments, and compare the proof sheets of the printed copies with the original rolls. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

ATTESTATION

STATE OF MISSOURI)
) ss.
City of Jefferson)

I, Patricia L. Buxton, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-fourth General Assembly of the State of Missouri, convened in first extraordinary session and second regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this seventeenth day of July A.D. two thousand eight.

PATRICIA L. BUXTON
REVISOR OF STATUTES

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-fourth General Assembly, First Extraordinary Session, convened Monday, August 20, 2007, and adjourned Thursday, August 30, 2007. Both bills passed during this extraordinary session contained emergency clauses. House Bill 1 only contained an emergency clause for 3 sections which became effective September 4, 2007, the remainder of the bill became effective November 28, 2007. House Bill 2 contained an emergency clause and became effective September 4, 2007.

The Ninety-fourth General Assembly, Second Regular Session, convened Wednesday, January 9, 2008, and adjourned May 30, 2008. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2008.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

The Ninety-fourth General Assembly, Second Regular Session, passed one Joint Resolution. Resolutions are to be published as provided in Section 116.340, RSMo 2000, which reads:

“116.340. Publication of approved measures. — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2008 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.



The Joint Committee on Legislative Research
is pleased to state that the *2008 Session Laws*
is produced with soy-based ink.

POPULAR NAME TABLE

2008 LEGISLATION

A+ Schools Program Access, HB 2191
Cyber Bullying, SB 818
Debbi Daniel Law, Adoption Records, HB 1640
Deputy Sheriff Pay Raise, HB 2224
Ethan's Law, Swimming Pool Liability Insurance, HB 1341
Identity Theft Protection, HB 1384
Ignition Interlock Devices, SB 930
Illegal Immigration, HB 1549
Internet Harassment Safeguards, SB 818
Minimum Wage Law Correction, HB 1883
Missouri Vehicle Protection Product Act, SB 930
Organ Donation, SB 1139
Property Tax Reform Package, SB 711
Second Amendment Protection, HB 2034
Second Injury Fund Correction, HB 1883
Sexual Predator Protection, Registration of E-mail Addresses, SB 714
Show-Me Green Sales Tax Holiday, Energy Star Appliances, SB 1181
STEMI Centers, HB 1790
Textbook Transparency Act, HB 2048
Time Critical Diagnosis System, HB 1790
VOIP (Voice Over Internet Protocol) Deregulation, HB 1779
Volunteer Job Safety, HB 1883
Watercraft Safety, HB 1715

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TABLE OF SECTIONS AFFECTED
BY
2007 FIRST EXTRAORDINARY SESSION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
32.105	Amended	HB 1	173.196	Amended	HB 1
67.306	New	HB 1	173.796	Amended	HB 1
99.805	Amended	HB 1	178.716	New	HB 1
99.820 a	Amended	HB 1	178.895	Amended	HB 1
99.843	New	HB 1	178.896	Amended	HB 1
99.1205	New	HB 1	227.107	Amended	HB 2
100.286	Amended	HB 1	348.300	Amended	HB 1
135.460	Amended	HB 1	578.395	Repealed	HB 1
135.478	Amended	HB 1	620.495	Amended	HB 1
135.500	Amended	HB 1	620.511	New	HB 1
135.545	Amended	HB 1	620.512	New	HB 1
135.550	Amended	HB 1	620.513	New	HB 1
135.600	Amended	HB 1	620.521	Repealed	HB 1
135.630	Amended	HB 1	620.523	Repealed	HB 1
135.679	New	HB 1	620.527	Repealed	HB 1
135.680	New	HB 1	620.529	Repealed	HB 1
135.750	Amended	HB 1	620.530	Repealed	HB 1
135.950	Amended	HB 1	620.537	Repealed	HB 1
135.963	Amended	HB 1	620.638	Amended	HB 1
135.967	Amended	HB 1	620.1039	Amended	HB 1
135.1150	Amended	HB 1	620.1878	Amended	HB 1
144.030	Amended	HB 1	620.1881	Amended	HB 1

TABLE OF SECTIONS AFFECTED
BY
2007 FIRST EXTRAORDINARY SESSION

SECTION	ACTION	BILL		SECTION	ACTION	BILL
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- a Section 99.820 contained two versions because of a technical drafting error in the 1st Regular Session of the 94th General Assembly, 2007. HB 1 repealed the version enacted in 2007 by HB 741, and amended the version enacted in 2003 by SB 11.

TABLE OF SECTIONS AFFECTED BY 2008 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
8.016	Vetoed	HB 1689	30.765	Amended	SB 1181
8.283	Repealed	HB 1549	32.057	Amended	HB 2058
8.295	New	SB 1181	32.105	Amended	HB 2058
8.800	Amended	SB 1181	32.105	Amended	SB 718
8.810	Amended	SB 1181	33.103	Amended	SB 1140
8.812	Amended	SB 1181	34.074	New	HB 1313
8.815	Amended	SB 1181	37.005	Amended	SB 1140
8.837	Amended	SB 1181	41.1010	Amended	HB 1678
8.922	New	HB 1784	42.007	Amended	HB 1678
9.135	New	SB 806	43.032	New	HB 1549
9.139	New	HB 2213	43.543	Amended	SB 788
10.180	New	SB 991	43.650	Amended	SB 714
21.800	Amended	HB 1450	43.651	New	SB 714
21.840	New	SB 788	44.100	Amended	SB 951
26.700	Vetoed	HB 1689	49.292	Amended	SB 907
26.705	Vetoed	HB 1689	49.292	Amended	SB 1033
26.710	Vetoed	HB 1689	50.172	Amended	HB 1608
30.750	Amended	SB 1181	52.240	Amended	SB 711
30.753	Amended	SB 1181	57.278	New	HB 2224
30.756	Amended	SB 1181	57.280	Amended	HB 2224
30.758	Amended	SB 1181	58.165	Vetoed	SB 1061
30.760	Amended	SB 1181	58.451	Amended	SB 1139

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
58.720	Amended	SB 1139	86.1230	Repealed	SB 980
58.775	New	SB 1139	86.1560	Amended	HB 1710
58.780	New	SB 1139	86.1560	Amended	SB 980
58.785	New	SB 1139	88.917	Amended	HB 2047
64.170	Amended	SB 1181	89.080	Amended	HB 1888
67.110	Amended	SB 711	89.090	Amended	HB 1888
67.307	New	HB 1549	89.120	Amended	HB 1849
67.993	Amended	HB 1380	89.120	Amended	SB 1002
67.1501	Amended	HB 2058	94.577	Amended	SB 1131
67.1501	Amended	SB 718	94.600	Amended	SB 1131
67.1545	Amended	HB 2058	94.605	Amended	SB 1131
67.1545	Amended	SB 718	94.900	Amended	SB 718
72.080	Amended	SB 765	94.902	Amended	SB 718
77.105	New	HB 1804	96.160	Amended	HB 1790
82.020	Amended	HB 1804	99.820	Amended	HB 2058
84.480	Amended	SB 801	99.820	Amended	SB 718
84.510	Amended	SB 801	99.825	Amended	HB 2058
86.1180	Amended	HB 1710	99.825	Amended	SB 718
86.1180	Amended	SB 980	105.452	Amended	HB 2233
86.1200	Amended	HB 1710	105.485	Amended	HB 2058
86.1200	Amended	SB 980	105.711	Amended	SB 788
86.1230	Amended	HB 1710	105.1270	New	HB 2058

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
108.250	Amended	SB 944	135.805	Amended	HB 2058
115.453	Amended	HB 1311	135.805	Amended	SB 931
130.016	Amended	SB 1038	135.815	Amended	HB 2058
130.021	Amended	SB 1038	135.815	Amended	SB 718
130.032	Repealed	SB 1038	135.950	Amended	HB 2393
130.037	Amended	SB 1038	135.967	Amended	HB 2058
130.044	New	SB 1038	135.967	Amended	HB 2393
130.050	Amended	SB 1038	135.967	Amended	SB 718
130.072	Amended	SB 1038	135.968	New	HB 2393
135.010	Amended	SB 711	137.016	Amended	SB 711
135.025	Amended	SB 711	137.055	Amended	SB 711
135.030	Amended	SB 711	137.073	Amended	SB 711
135.090	Amended	SB 979	137.082	Amended	SB 711
135.305	Amended	HB 2058	137.092	Amended	SB 711
135.348	Repealed	HB 2058	137.106	Amended	SB 711
135.520	Amended	SB 788	137.115	Amended	HB 2058
135.682	New	HB 2058	137.115	Amended	SB 711
135.682	New	SB 718	137.115	Amended	SB 718
135.710	New	SB 931	137.122	Amended	SB 711
135.800	Amended	HB 2058	137.180	Amended	SB 711
135.800	Amended	SB 931	137.243	New	SB 711
135.803	New	HB 2058	137.245	Amended	SB 711

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
137.275	Amended	SB 711		138.400	Amended	SB 711
137.335	Amended	SB 711		138.430	Amended	SB 711
137.355	Amended	SB 711		138.435	New	SB 711
137.375	Amended	SB 711		139.031	Amended	SB 711
137.390	Amended	SB 711		142.028	Amended	SB 931
137.490	Amended	SB 711		142.869	Amended	HB 1628
137.510	Amended	SB 711		143.121	Amended	SB 748
137.515	Amended	SB 711		143.121	Amended	SB 1181
137.720	Amended	SB 711		143.1009	New	SB 1105
137.721	Amended	SB 711		144.011	Amended	SB 788
137.1018	Amended	SB 711		144.030	Amended	HB 1670
138.010	Amended	SB 711		144.030	Amended	SB 930
138.050	Amended	SB 711		144.053	New	SB 931
138.090	Amended	SB 711		144.057	New	HB 2058
138.100	Amended	SB 711		144.057	New	SB 718
138.110	Amended	SB 711		144.059	New	SB 1073
138.120	Amended	SB 711		144.063	New	SB 931
138.170	Amended	SB 711		144.270	Amended	HB 1828
138.180	Amended	SB 711		144.270	Amended	SB 979
138.380	Amended	SB 711		144.526	New	SB 1181
138.390	Amended	SB 711		144.805	Amended	SB 930
138.395	Repealed	SB 711		148.330	Amended	SB 788

TABLE OF SECTIONS AFFECTED BY 2008 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
155.010	Amended	SB 930	168.021	Amended	HB 1678
160.053	Amended	HB 1678	168.021	Amended	SB 1066
160.254	Amended	SB 1066	168.520	Amended	HB 1807
160.261	Amended	SB 818	170.011	Amended	HB 1678
160.459	New	SB 1170	172.030	Vetoed	SB 873
160.518	Amended	HB 1678	172.035	Vetoed	SB 873
160.530	Amended	SB 1066	172.040	Vetoed	SB 873
160.545	Amended	HB 2191	172.060	Vetoed	SB 873
160.2000	New	HB 1678	173.234	New	HB 1678
161.365	New	SB 1181	173.256	Amended	HB 2191
162.675	Amended	HB 1807	173.258	Amended	HB 2191
162.730	Amended	HB 1807	173.387	Amended	SB 967
162.740	Amended	HB 1807	173.900	New	HB 1678
162.755	Amended	HB 1807	173.900	New	SB 830
162.780	Amended	HB 1807	173.955	New	HB 2048
162.785	Amended	HB 1807	174.332	Amended	HB 1368
162.810	Amended	HB 1807	174.805	New	HB 1869
163.044	Amended	SB 711	177.088	Amended	SB 839
164.151	Amended	SB 711	177.088	Amended	SB 1170
166.425	Amended	SB 863	178.585	Amended	HB 2041
166.435	Amended	SB 863	190.094	Amended	SB 1039
167.031	Amended	HB 1550	190.094	Amended	SB 1044

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
190.100	Amended	HB 1790		194.263	New	SB 1139
190.176	Amended	HB 1790		194.265	New	SB 1139
190.200	Amended	HB 1790		194.270	Amended	SB 1139
190.241	Amended	HB 1790		194.275	New	SB 1139
190.243	Amended	HB 1790		194.280	Amended	SB 1139
190.245	Amended	HB 1790		194.285	New	SB 1139
190.335	Amended	SB 1039		194.290	Amended	SB 1139
193.125	Amended	HB 1640		194.292	New	SB 1139
194.119	Amended	SB 788		194.293	New	SB 1139
194.119	Amended	SB 1139		194.294	New	SB 1139
194.210	Amended	SB 1139		194.304	Amended	SB 1139
194.215	New	SB 1139		195.017	Amended	SB 724
194.220	Amended	SB 1139		195.070	Amended	SB 724
194.225	New	SB 1139		195.100	Amended	SB 724
194.230	Amended	SB 1139		195.417	Amended	SB 724
194.233	Repealed	SB 1139		208.009	New	HB 1549
194.235	New	SB 1139		209.285	Amended	SB 788
194.240	Amended	SB 1139		210.278	New	HB 1946
194.245	New	SB 1139		210.900	Amended	SB 1081
194.250	Amended	SB 1139		210.903	Amended	SB 1081
194.255	New	SB 1139		210.906	Amended	SB 1081
194.260	Amended	SB 1139		210.909	Amended	SB 1081

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
210.915	Amended	SB 1081	227.396	New	SB 753
210.921	Amended	SB 1081	227.397	New	HB 1887
210.927	Amended	SB 1081	227.397	New	SB 930
211.021	Amended	HB 1550	227.398	New	HB 2360
211.033	Amended	HB 1550	227.400	New	SB 930
211.034	Amended	HB 1550	231.444	Amended	HB 2047
211.041	Amended	HB 1550	233.010	Amended	SB 896
211.061	Amended	HB 1550	233.155	Amended	SB 896
211.071	Amended	HB 1550	233.155	Amended	SB 930
211.091	Amended	HB 1550	233.177	New	SB 896
211.101	Amended	HB 1550	233.297	New	SB 896
211.425	Amended	SB 714	233.317	New	SB 896
214.270	Amended	SB 788	238.202	Amended	SB 930
221.515	Amended	HB 1550	238.207	Amended	SB 930
227.102	New	SB 930	238.210	Amended	SB 930
227.103	New	SB 930	242.230	Amended	SB 939
227.378	New	SB 930	242.430	Amended	SB 939
227.386	New	SB 753	242.500	Amended	SB 939
227.387	New	SB 753	245.020	Amended	SB 939
227.389	New	HB 1952	245.105	Amended	SB 939
227.393	New	HB 1575	245.175	Amended	SB 939
227.394	New	SB 753	245.197	Amended	SB 939

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
246.305	Amended	SB 939		260.1101	New	SB 720
247.060	Amended	HB 1881		261.035	Amended	SB 931
247.060	Amended	SB 956		261.230	Amended	SB 931
247.160	Amended	SB 956		261.235	Amended	SB 931
251.650	New	SB 1181		261.239	Amended	SB 931
256.453	Amended	SB 788		263.232	Amended	SB 931
260.285	Repealed	HB 2058		265.200	Amended	SB 931
260.546	Amended	SB 931		267.168	New	SB 931
260.1003	Amended	SB 907		278.070	Amended	SB 931
260.1050	New	SB 720		281.260	Amended	SB 931
260.1053	New	SB 720		285.035	New	HB 1883
260.1059	New	SB 720		285.035	New	HB 2041
260.1062	New	SB 720		285.230	Amended	SB 788
260.1065	New	SB 720		285.309	New	HB 1549
260.1068	New	SB 720		285.500	New	HB 1549
260.1071	New	SB 720		285.503	New	HB 1549
260.1074	New	SB 720		285.506	New	HB 1549
260.1077	New	SB 720		285.512	New	HB 1549
260.1080	New	SB 720		285.515	New	HB 1549
260.1083	New	SB 720		285.525	New	HB 1549
260.1089	New	SB 720		285.530	New	HB 1549
260.1092	New	SB 720		285.535	New	HB 1549

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
285.540	New	HB 1549		301.029	New	HB 1354
285.543	New	HB 1549		301.130	Amended	SB 930
285.550	New	HB 1549		302.010	Amended	SB 930
285.555	New	HB 1549		302.060	Amended	SB 930
286.200	Vetoed	HB 1689		302.063	New	HB 1549
286.205	Vetoed	HB 1689		302.171	Amended	SB 1139
286.210	Vetoed	HB 1689		302.177	Amended	SB 930
287.020	Amended	HB 1883		302.304	Amended	SB 930
287.200	Amended	HB 1883		302.309	Amended	SB 930
287.230	Amended	HB 1883		302.341	Amended	SB 930
288.040	Amended	HB 2041		302.525	Amended	SB 930
288.042	Amended	HB 2041		302.720	Amended	HB 1549
288.070	Amended	HB 2041		302.720	Amended	SB 930
288.131	New	HB 2041		302.735	Amended	SB 930
288.250	Amended	HB 2041		304.015	Amended	SB 930
288.312	New	HB 2041		304.032	New	SB 930
290.505	Amended	HB 1883		304.130	Amended	SB 930
290.505	Amended	HB 2041		304.157	Amended	HB 1715
290.523	New	HB 1883		304.180	Amended	SB 930
290.523	New	HB 2041		304.230	Amended	SB 930
292.675	New	HB 1549		304.232	New	SB 930
301.010	Amended	SB 930		304.590	New	SB 930

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
305.230	Amended	SB 930		319.015	Amended	HB 1779
305.410	Amended	HB 1888		319.016	New	HB 1779
306.010	Amended	HB 1715		319.022	Amended	HB 1779
306.015	Amended	HB 1715		319.024	Amended	HB 1779
306.030	Amended	HB 1715		319.025	Amended	HB 1779
306.100	Amended	HB 1715		319.026	Amended	HB 1779
306.111	Amended	HB 1715		319.027	New	HB 1779
306.112	Amended	HB 1715		319.029	New	HB 1779
306.114	Amended	HB 1715		319.030	Amended	HB 1779
306.117	Amended	HB 1715		319.036	Repealed	HB 1779
306.118	New	HB 1715		319.037	Amended	HB 1779
306.124	Amended	HB 1715		319.041	Amended	HB 1779
306.125	Amended	HB 1715		319.042	New	HB 1779
306.132	Amended	HB 1715		319.045	Amended	HB 1779
306.147	Amended	HB 1715		319.050	Amended	HB 1779
306.163	Amended	HB 1715		319.109	Amended	SB 907
306.190	Amended	HB 1715		319.129	Amended	SB 907
306.221	Amended	HB 1715		319.131	Amended	SB 907
306.228	Amended	HB 1715		319.133	Amended	SB 907
306.228	Amended	SB 1187		319.136	New	SB 907
313.820	Amended	HB 1804		320.082	Amended	SB 788
316.250	New	HB 1341		320.336	Amended	HB 1883

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
324.001	New	SB 788		324.200	Amended	SB 788
324.002	New	SB 788		324.203	Amended	SB 788
324.016	New	SB 788		324.240	Amended	SB 788
324.017	New	SB 788		324.243	Amended	SB 788
324.021	New	SB 788		324.265	Amended	HB 1419
324.022	New	SB 788		324.400	Amended	SB 788
324.024	New	SB 788		324.406	Amended	SB 788
324.026	New	SB 788		324.475	Amended	SB 788
324.028	New	SB 788		324.526	Amended	SB 788
324.029	New	SB 788		325.010	Amended	SB 788
324.031	New	SB 788		326.256	Amended	SB 788
324.032	New	SB 788		326.265	Amended	SB 788
324.034	New	SB 788		326.283	Amended	SB 788
324.036	New	SB 788		326.289	Amended	SB 788
324.038	New	SB 788		326.292	Amended	SB 788
324.039	New	SB 788		327.051	Amended	SB 788
324.041	New	SB 788		328.050	Amended	SB 788
324.042	New	SB 788		329.025	Amended	SB 788
324.043	New	SB 788		329.028	Amended	SB 788
324.050	Amended	SB 788		329.210	Amended	SB 788
324.128	Amended	SB 788		330.190	Amended	SB 788
324.159	Amended	SB 788		331.100	Amended	SB 788

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
332.041	Amended	SB 788		334.614	New	SB 788
332.327	Amended	SB 788		334.615	New	SB 788
333.011	Amended	SB 788		334.616	New	SB 788
333.221	Amended	SB 788		334.617	New	SB 788
334.104	Amended	SB 724		334.618	New	SB 788
334.123	Amended	SB 788		334.650	Amended	SB 788
334.240	Amended	SB 788		334.655	Amended	SB 788
334.400	Amended	SB 788		334.660	Amended	SB 788
334.500	Amended	SB 788		334.665	Amended	SB 788
334.506	Amended	SB 788		334.670	Amended	SB 788
334.525	New	SB 788		334.675	Amended	SB 788
334.530	Amended	SB 788		334.686	New	SB 788
334.540	Amended	SB 788		334.687	New	SB 788
334.550	Amended	SB 788		334.702	Amended	SB 788
334.560	Amended	SB 788		334.735	Amended	SB 788
334.570	Amended	SB 788		334.746	Amended	SB 788
334.601	New	SB 788		334.800	Amended	SB 788
334.602	New	SB 788		335.016	Amended	SB 724
334.610	Amended	SB 788		335.019	New	SB 724
334.611	New	SB 788		335.036	Amended	SB 788
334.612	New	SB 788		335.076	Amended	SB 724
334.613	New	SB 788		336.140	Amended	SB 850

TABLE OF SECTIONS AFFECTED BY 2008 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
336.160	Amended	SB 788	340.341	Amended	SB 931
337.010	Amended	SB 788	340.375	Amended	SB 931
337.029	Amended	HB 2065	340.381	Amended	SB 931
337.068	Amended	HB 2065	340.384	Amended	SB 931
337.090	Amended	SB 788	340.387	Amended	SB 931
337.500	Amended	SB 788	340.390	Amended	SB 931
337.600	Amended	SB 788	340.393	Amended	SB 931
337.700	Amended	SB 788	340.396	Amended	SB 931
338.130	Amended	SB 788	340.399	Repealed	SB 931
338.410	New	SB 1068	340.402	Repealed	SB 931
338.600	New	SB 1068	340.405	Repealed	SB 931
338.650	New	SB 1068	345.035	Amended	SB 788
339.010	Amended	SB 788	346.010	Amended	SB 788
339.100	Amended	HB 2188	347.740	Amended	SB 1150
339.120	Amended	SB 788	348.230	New	SB 931
339.150	Amended	SB 788	348.235	New	SB 931
339.175	New	HB 2188	348.430	Amended	SB 931
339.507	Amended	SB 788	348.432	Amended	SB 931
339.532	Amended	HB 2188	348.436	Amended	HB 2058
339.543	New	HB 2188	348.505	Amended	SB 931
340.212	Amended	SB 788	348.515	New	SB 931
340.337	Amended	SB 931	348.518	New	SB 931

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
348.521	New	SB 931		370.006	New	SB 788
348.524	New	SB 931		370.366	Amended	SB 788
348.527	New	SB 931		374.005	New	SB 788
348.530	New	SB 931		374.007	New	SB 788
348.533	New	SB 931		374.045	Amended	SB 788
351.127	Amended	SB 1150		374.056	New	HB 1690
353.150	Amended	HB 2058		374.057	New	HB 1690
354.305	Amended	SB 788		374.070	Amended	SB 788
355.023	Amended	SB 1150		374.075	Amended	SB 788
356.233	Amended	SB 1150		374.085	Amended	SB 788
359.653	Amended	SB 1150		374.115	Amended	SB 788
361.010	Amended	SB 788		374.180	Amended	SB 788
361.092	Amended	SB 788		374.202	Amended	SB 788
361.140	Amended	SB 788		374.217	Amended	SB 788
361.160	Amended	SB 788		374.220	Amended	SB 788
361.240	Amended	SB 951		374.250	Amended	SB 788
362.048	Amended	SB 951		374.456	Amended	SB 788
362.109	Amended	SB 788		375.001	Amended	SB 788
362.332	Amended	SB 788		375.261	Amended	SB 788
362.550	Amended	SB 1235		375.923	Amended	SB 788
362.910	Amended	SB 788		376.005	New	SB 788
367.500	Amended	SB 788		377.005	New	SB 788

TABLE OF SECTIONS AFFECTED BY 2008 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
379.005	New	SB 788	386.020	Amended	HB 1779
379.118	Amended	HB 1690	386.572	New	HB 1779
380.005	New	SB 788	386.850	New	SB 1181
381.410	Amended	SB 788	390.021	New	HB 1422
381.412	Amended	SB 1009	390.021	New	SB 930
383.005	New	SB 788	390.071	Repealed	HB 1422
383.030	Amended	SB 788	390.372	New	SB 930
385.050	Amended	HB 1893	392.200	Amended	HB 1779
385.050	Amended	SB 1168	392.220	Amended	HB 1779
385.400	New	SB 930	392.230	Amended	HB 1779
385.403	New	SB 930	392.245	Amended	HB 1779
385.406	New	SB 930	392.361	Amended	HB 1779
385.409	New	SB 930	392.370	Amended	HB 1779
385.412	New	SB 930	392.410	Amended	HB 1426
385.415	New	SB 930	392.420	Amended	HB 1779
385.418	New	SB 930	392.450	Amended	HB 1779
385.421	New	SB 930	392.451	Amended	HB 1779
385.424	New	SB 930	392.480	Amended	HB 1779
385.427	New	SB 930	392.490	Repealed	HB 1779
385.430	New	SB 930	392.510	Amended	HB 1779
385.433	New	SB 930	392.515	Repealed	HB 1779
385.436	New	SB 930	392.520	Amended	HB 1779

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
392.550	New	HB 1779	427.225	Amended	SB 999
393.108	New	SB 720	436.005	Amended	SB 788
393.171	New	SB 720	442.558	New	SB 907
393.1045	New	SB 1181	443.803	Amended	SB 788
393.1150	New	SB 720	443.809	Amended	HB 2188
400.9-528	Amended	SB 1150	443.810	Amended	HB 2188
407.020	Amended	SB 788	443.891	Amended	HB 2188
407.300	Amended	SB 1034	443.930	New	HB 2188
407.301	New	SB 1034	447.708	Amended	HB 2058
407.302	New	SB 1034	447.708	Amended	SB 718
407.303	New	SB 1034	452.412	New	HB 1678
407.1085	Amended	SB 788	453.072	Amended	HB 1946
407.1373	New	HB 1970	453.073	Amended	HB 1946
407.1380	New	HB 1384	456.8.802	Amended	SB 1235
407.1382	New	HB 1384	456.8.816	Amended	SB 1235
407.1384	New	HB 1384	478.466	Amended	HB 1550
407.1385	New	HB 1384	484.302	New	HB 1570
408.233	Amended	SB 788	488.435	Amended	HB 2224
408.570	Amended	SB 788	488.2300	Amended	HB 1570
414.036	New	SB 907	491.075	Amended	SB 714
414.072	Amended	SB 907	537.037	Amended	SB 1081
417.018	Amended	SB 1150	537.294	Amended	HB 2034

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
537.340	Amended	SB 958	571.020	Amended	HB 2034
537.355	New	HB 2034	571.070	Amended	HB 2034
537.675	Amended	SB 1016	571.072	New	HB 2034
542.276	Amended	SB 932	571.093	New	HB 2034
544.470	Amended	HB 1549	571.101	Amended	HB 2034
556.061	Amended	SB 714	573.025	Amended	SB 714
559.600	Amended	HB 1550	573.035	Amended	SB 714
565.024	Amended	HB 1715	573.037	Amended	SB 714
565.082	Amended	HB 1715	573.038	New	SB 714
565.090	Amended	SB 818	573.040	Amended	SB 714
565.153	Amended	SB 714	577.023	Amended	HB 1715
565.225	Amended	SB 818	577.023	Amended	SB 930
566.083	Amended	SB 714	577.041	Amended	SB 930
566.147	Amended	SB 714	577.080	Amended	HB 1715
566.149	Amended	SB 714	577.600	Amended	SB 930
566.153	New	SB 714	577.602	Amended	SB 930
570.055	New	SB 1034	577.612	Amended	SB 930
570.222	New	HB 1384	577.722	New	HB 1549
570.310	New	HB 2188	577.900	New	HB 1549
570.380	New	HB 1384	578.570	New	HB 1549
571.010	Amended	HB 2034	589.015	Amended	SB 714
571.014	New	HB 2034	589.400	Amended	SB 714

**TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
589.402	Amended	SB 714	620.135	Repealed	SB 788
589.403	Amended	SB 714	620.140	Repealed	SB 788
589.405	Amended	SB 714	620.145	Repealed	SB 788
589.407	Amended	SB 714	620.146	Repealed	SB 788
589.414	Amended	SB 714	620.148	Repealed	SB 788
589.425	Amended	SB 714	620.149	Repealed	SB 788
589.426	New	SB 714	620.150	Repealed	SB 788
590.050	Amended	HB 2224	620.151	Repealed	SB 788
590.050	Amended	SB 930	620.153	Repealed	SB 788
590.050	Amended	SB 932	620.154	Repealed	SB 788
610.021	Amended	HB 1450	620.515	Amended	HB 1678
620.010	Amended	SB 788	620.1063	Amended	SB 788
620.010	Vetoed	SB 1190	620.1878	Amended	HB 2058
620.050	New	HB 2058	620.1878	Amended	SB 718
620.105	Repealed	SB 788	620.1881	Amended	HB 2058
620.106	Repealed	SB 788	620.1881	Amended	SB 718
620.111	Repealed	SB 788	621.250	Amended	HB 1469
620.120	Repealed	SB 788	622.095	Repealed	HB 1422
620.125	Repealed	SB 788	630.045	Amended	SB 1081
620.127	Repealed	SB 788	630.050	Amended	SB 1081
620.130	Repealed	SB 788	630.140	Amended	SB 1081
620.132	Repealed	SB 788	630.165	Amended	SB 1081

TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
630.167	Amended	SB 1081	650.060	New	SB 733
630.170	Amended	SB 1081	650.100	Amended	SB 733
630.175	Amended	SB 1081	650.120	Amended	SB 714
632.005	Amended	HB 1791	650.120	Amended	SB 932
632.005	Amended	SB 1081	650.350	Amended	HB 2224
632.005	Amended	SB 1177	650.681	New	HB 1549
632.440	Amended	SB 1081	660.099	Amended	HB 2036
633.005	Amended	SB 1081	660.115	Amended	SB 720
633.200	New	SB 768	660.135	Amended	SB 720
633.225	New	SB 768	700.010	Amended	SB 788
633.300	New	SB 1081	700.041	New	SB 788
633.303	New	SB 1081	700.045	Amended	SB 788
633.306	New	SB 1081	700.056	Amended	SB 788
633.309	New	SB 1081	700.065	Amended	SB 788
633.401	New	SB 1081	700.070	Repealed	SB 788
640.013	Amended	HB 1469	700.090	Amended	SB 788
640.017	New	SB 1181	700.095	New	SB 788
640.153	New	SB 1181	700.096	New	SB 788
640.157	New	SB 1181	700.097	New	SB 788
640.216	New	SB 1181	700.098	New	SB 788
643.340	Amended	SB 936	700.100	Amended	SB 788
644.570	Amended	SB 1040	700.115	Amended	SB 788

TABLE OF SECTIONS AFFECTED
BY
2008 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
700.450	Repealed	SB 788	701.506	New	SB 1181
700.455	Repealed	SB 788	701.509	New	SB 1181
700.460	Repealed	SB 788	701.512	New	SB 1181
700.465	Repealed	SB 788	701.515	New	SB 1181
700.470	Repealed	SB 788	1	New	HB 1550
700.525	Amended	SB 788	1	New	SB 711
700.650	Amended	SB 788	1	New	SB 1066
701.500	New	SB 1181	1	New	SB 1181
701.503	New	SB 1181			

**LAWS PASSED
DURING THE
NINETY-FOURTH
GENERAL ASSEMBLY,
FIRST EXTRAORDINARY SESSION**

Monday, August 20, 2007
through
Thursday, August 30, 2007

HB 1 [SCS HCS HB 1]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding economic incentive and development programs

AN ACT to repeal sections 32.105, 99.805, 100.286, 135.460, 135.478, 135.500, 135.545, 135.550, 135.600, 135.630, 135.750, 135.950, 135.963, 135.967, 135.1150, 144.030, 173.196, 173.796, 178.895, 178.896, 348.300, 578.395, 620.495, 620.521, 620.523, 620.527, 620.529, 620.530, 620.537, 620.638, 620.1039, 620.1878, and 620.1881, RSMo, section 99.820 as truly agreed to and finally passed in conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 11, ninety-second general assembly, first regular session, and section 99.820, as truly agreed to and finally passed in senate substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and to enact in lieu thereof thirty-six new sections relating to fostering business growth through incentives, with an emergency clause for certain sections.

SECTION

- A. Enacting clause.
 - 32.105. Definitions.
 - 67.306. Admission tickets, sale or resale of, no restrictions on price or fees, exceptions.
 - 99.805. Definitions.
 - 99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
 - 99.843. Greenfield areas, no new projects to be designated, when.
 - 99.1205. Citation of law — definitions — tax credit allowed, amount — procedure to claim — cap on aggregate tax credit amount — report required — rulemaking authority.
 - 100.286. Loans secured by certain funds — standards — information required — review and certification by participating lender — board approval — fee, tax credit, limitation.
 - 135.460. Citation of law — tax credit, amount, claim, limitation — allowable programs — report — apportionment of credits — rulemaking authority.
 - 135.478. Definitions.
 - 135.500. Title of law — definitions.
 - 135.545. Tax credit for investing in the transportation development of a distressed community — approval of investment by economic development, credit carried forward, transfer of certificate of credit, maximum amount allowed.
 - 135.550. Definitions — tax credit, amount — limitations — director of social services determinations, classification of shelters — effective date.
 - 135.600. Definitions — tax credit, amount — limitations — director of social services determinations, classification of maternity homes — effective date.
 - 135.630. Tax credit for contributions to pregnancy resource centers, definitions — amount — limitations — determination of qualifying centers — cumulative amount of credits — apportionment procedure, reapportionment of credits — identity of contributors provided to director, confidentiality — transfer of credits — sunset provision.
 - 135.679. Citation — definitions — tax credit, amount, claim procedure — rulemaking authority.
 - 135.680. Definitions — tax credit, amount — recapture, when — rulemaking authority — reauthorization procedure — sunset date.
 - 135.750. Tax credit for qualified film production projects — definitions — application — cap — transfer of credits — sunset date.
 - 135.950. Definitions.
 - 135.963. Improvements exempt, when — authorizing resolution, contents — public hearing required, notice — certain property exempt from ad valorem taxes, duration — time period — property affected — assessor's duties.
 - 135.967. Tax credit allowed, duration — prohibition on receiving other tax credits — limitations on issuance of tax credits — cap — eligibility of certain expansions — employee calculations — computation of credit — flow-through tax treatments — credits may be claimed, when — certificates — refunds — verification procedures.
 - 135.1150. Citation of law — definitions — tax credit, amount — claim application — limitation — transferability of credit — rulemaking authority — sunset provision.
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- 144.030. Exemptions from state and local sales and use taxes.
- 173.196. Business firm may make donation to higher education scholarship donation fund, tax credit — amount of credit, limitations, carry-over, transfer — use of fund — tax credits prohibited, when.
- 173.796. Tax credit for donations to fund — tax credits prohibited, when.
- 178.716. Vocational school districts permitted, procedure (Butler, Stoddard, Wayne, Ripley, New Madrid, Pemiscot, Dunklin, Mississippi, Cape Girardeau, Bollinger, and Scott counties).
- 178.895. Certificates, issue of, sale of — refunding certificates, issued when — procedure on issuance — not deemed indebtedness of state or political subdivision — rules and regulations, department of economic development to promulgate, procedure — termination of sales of certificates, when.
- 178.896. Community college job training program fund established — administration — expiration date.
- 348.300. Definitions.
- 620.495. Small business incubator program — definitions — tax credit.
- 620.511. Board established, purpose, meetings, members, terms, compensation for expenses.
- 620.512. Bylaws to be established — restriction on operations of board — rulemaking authority.
- 620.513. Duties of the board, report — limitation on authority.
- 620.638. Definitions.
- 620.1039. Tax credit for qualified research expenses, exception — certification by director of economic development — transfer of credits, application, restrictions and procedure — limitations on credit — tax credits prohibited, when.
- 620.1878. Definitions.
- 620.1881. Project notice of intent, department to respond with a proposal or a rejection — benefits available — effect on withholding tax — projects eligible for benefits — annual report — cap on tax credits — allocation of tax credits.
- 99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
- 578.395. Ticket scalping, penalty.
- 620.521. Law, how cited.
- 620.523. Missouri training and employment council established, purpose — members, appointment, qualifications — rules established in bylaws — terms, expenses.
- 620.527. Powers and duties of council.
- 620.529. Statewide training and employment plan to be prepared for state and local agencies — content of plan — review and update required.
- 620.530. Division of job development training to provide professional and clerical staff — division to develop rules to carry out plans and policies.
- 620.537. Targeted industries study, purpose, distribution — study of clustered job training.
- B. Emergency Clause

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.105, 99.805, 100.286, 135.460, 135.478, 135.500, 135.545, 135.550, 135.600, 135.630, 135.750, 135.950, 135.963, 135.967, 135.1150, 144.030, 173.196, 173.796, 178.895, 178.896, 348.300, 578.395, 620.495, 620.521, 620.523, 620.527, 620.529, 620.530, 620.537, 620.638, 620.1039, 620.1878, and 620.1881, RSMo, section 99.820 as truly agreed to and finally passed in conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 11, ninety-second general assembly, first regular session, and section 99.820, as truly agreed to and finally passed in senate substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 32.105, 67.306, 99.805, 99.820, 99.843, 99.1205, 100.286, 135.460, 135.478, 135.500, 135.545, 135.550, 135.600, 135.630, 135.679, 135.680, 135.750, 135.950, 135.963, 135.967, 135.1150, 144.030, 173.196, 173.796, 178.716, 178.895, 178.896, 348.300, 620.495, 620.511, 620.512, 620.513, 620.638, 620.1039, 620.1878, and 620.1881 to read as follows:

32.105. DEFINITIONS. — As used in sections 32.100 to 32.125, the following terms mean:

- (1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;
- (2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the

occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Size of Household	Percent of State or Geographic Area Family Median Income
One Person	5%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, **including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter**, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed four million dollars from within any one fiscal year's allocation, except that for fiscal years 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six million dollars. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

(12) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

(13) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

67.306. ADMISSION TICKETS, SALE OR RESALE OF, NO RESTRICTIONS ON PRICE OR FEES, EXCEPTIONS. — No regulation or ordinance of any city, county, or other political subdivision shall prohibit the sale or resale of an admission ticket to any legal event at any price or prohibit the charging of any fee in connection with such sale or resale except that nothing in this section shall be construed to prevent the enforcement of any regulation or ordinance relating to criminal activity, consumer fraud, false advertising, or other deceptive business practices.

99.805. DEFINITIONS. — As used in sections 99.800 to 99.865, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more. Such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision for projects approved on or after December 23, 1997;

(4) "Economic activity taxes", the total additional revenue from taxes which are imposed by a municipality and other taxing districts, and which are generated by economic activities within a redevelopment area over the amount of such taxes generated by economic activities within such redevelopment area in the calendar year prior to the adoption of the ordinance designating such a redevelopment area, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments. For redevelopment projects or redevelopment plans approved after December 23, 1997, if a retail establishment relocates within one year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to the redevelopment area;

(5) "Economic development area", any area or portion of an area located within the territorial limits of a municipality, which does not meet the requirements of subdivisions (1) and (3) of this section, and in which the governing body of the municipality finds that redevelopment will not be solely used for development of commercial businesses which unfairly compete in the local economy and is in the public interest because it will:

(a) Discourage commerce, industry or manufacturing from moving their operations to another state; or

(b) Result in increased employment in the municipality; or

(c) Result in preservation or enhancement of the tax base of the municipality;

(6) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo. This

subdivision shall be applicable only to a redevelopment area designated by ordinance adopted after December 23, 1997;

(7) **"Greenfield area", any vacant, unimproved, or agricultural property that is located wholly outside the incorporated limits of a city, town, or village, or that is substantially surrounded by contiguous properties with agricultural zoning classifications or uses unless said property was annexed into the incorporated limits of a city, town, or village ten years prior to the adoption of the ordinance approving the redevelopment plan for such greenfield area;**

(8) **"Municipality", a city, village, or incorporated town or any county of this state. For redevelopment areas or projects approved on or after December 23, 1997, "municipality" applies only to cities, villages, incorporated towns or counties established for at least one year prior to such date;**

[(8)] (9) **"Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a municipality to carry out a redevelopment project or to refund outstanding obligations;**

[(9)] (10) **"Ordinance", an ordinance enacted by the governing body of a city, town, or village or a county or an order of the governing body of a county whose governing body is not authorized to enact ordinances;**

[(10)] (11) **"Payment in lieu of taxes", those estimated revenues from real property in the area selected for a redevelopment project, which revenues according to the redevelopment project or plan are to be used for a private use, which taxing districts would have received had a municipality not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 2 of section 99.850;**

[(11)] (12) **"Redevelopment area", an area designated by a municipality, in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area, an enterprise zone pursuant to sections 135.200 to 135.256, RSMo, or a combination thereof, which area includes only those parcels of real property directly and substantially benefited by the proposed redevelopment project;**

[(12)] (13) **"Redevelopment plan", the comprehensive program of a municipality for redevelopment intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, conservation area, economic development area, or combination thereof, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of section 99.810;**

[(13)] (14) **"Redevelopment project", any development project within a redevelopment area in furtherance of the objectives of the redevelopment plan; any such redevelopment project shall include a legal description of the area selected for the redevelopment project;**

[(14)] (15) **"Redevelopment project costs" include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan or redevelopment project, as applicable. Such costs include, but are not limited to, the following:**

- (a) **Costs of studies, surveys, plans, and specifications;**
- (b) **Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except the reasonable costs incurred by the commission established in section 99.820 for the administration of sections 99.800 to 99.865, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of a redevelopment plan or project;**

(c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(d) Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures;

(e) Initial costs for an economic development area;

(f) Costs of construction of public works or improvements;

(g) Financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations, and which may include payment of interest on any obligations issued pursuant to sections 99.800 to 99.865 accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto;

(h) All or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs;

(i) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or are required to be paid by federal or state law;

(j) Payments in lieu of taxes;

[(15)] (16) "Special allocation fund", the fund of a municipality or its commission which contains at least two separate segregated accounts for each redevelopment plan, maintained by the treasurer of the municipality or the treasurer of the commission into which payments in lieu of taxes are deposited in one account, and economic activity taxes and other revenues are deposited in the other account;

[(16)] (17) "Taxing districts", any political subdivision of this state having the power to levy taxes;

[(17)] (18) "Taxing districts' capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from the redevelopment project; and

[(18)] (19) "Vacant land", any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED. — 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage,

disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains

knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety- three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, desires to implement a tax

increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

99.843. GREENFIELD AREAS, NO NEW PROJECTS TO BE DESIGNATED, WHEN. — Notwithstanding the provisions of sections 99.800 to 99.865 to the contrary, no new tax increment financing project shall be authorized in any greenfield area, as such term is defined in section 99.805, that is located within a city not within a county or any county subject to the authority of the East-West Gateway Council of Governments. Municipalities not subject to the authority of the East- West Gateway Council of Governments may authorize tax increment finance projects in greenfield areas.

99.1205. CITATION OF LAW — DEFINITIONS — TAX CREDIT ALLOWED, AMOUNT — PROCEDURE TO CLAIM — CAPON AGGREGATE TAX CREDIT AMOUNT — REPORT REQUIRED — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Distressed Areas Land Assemblage Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for a period of five years after the acquisition of such eligible parcel. Acquisition costs shall not include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from a municipality;

(2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation which has:

(a) Incurred, within an eligible project area, acquisition costs for the acquisition of land sufficient to satisfy the requirements under subdivision (8) of subsection 2 of this section; and

(b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop an urban renewal area or a redevelopment area that includes all of an eligible project area or whose redevelopment plan or redevelopment area, which encompasses all of an eligible project area, has been approved or adopted under an economic incentive law. In addition to being designated the redeveloper, the applicant shall have been designated to receive economic incentives only after the municipal authority has considered the amount of the tax credits in adopting such economic incentives as provided in subsection 8 of this section. The redevelopment agreement shall provide that:

a. The funds generated through the use or sale of the tax credits issued under this section shall be used to redevelop the eligible project area;

b. No more than seventy-five percent of the urban renewal area identified in the urban renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped by the applicant; and

c. The remainder of the urban renewal area or the redevelopment area shall be redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

(3) "Certificate", a tax credit certificate issued under this section;

(4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to initiate an action in a court of competent jurisdiction to use the power of eminent domain to acquire a parcel within the eligible project area. Condemnation proceedings shall include any and all actions taken after the submission of a notice of intended acquisition to an owner of a parcel within the eligible project area by a municipal authority or any other person or entity under section 523.250, RSMo;

(5) "Department", the Missouri department of economic development;

(6) "Economic incentive laws", any provision of Missouri law pursuant to which economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land, such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment projects approved or adopted which include the use of economic incentives to redevelop the land. Economic incentive laws include, but are not limited to, the land clearance for redevelopment authority law under sections 99.300 to 99.660, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation program under sections 99.1080 to 99.1092;

(7) "Eligible parcel", a parcel:

(a) Which is located within an eligible project area;

(b) Which is to be redeveloped;

(c) On which the applicant has not commenced construction prior to the effective date of this section;

(d) Which has been acquired without the commencement of any condemnation proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

(e) On which all outstanding taxes, fines, and bills levied by municipal governments that were levied by the municipality during the time period that the applicant held title to the eligible parcel have been paid in full;

(8) "Eligible project area", an area which shall have satisfied the following requirements:

(a) The eligible project area shall consist of at least seventy-five acres and may include parcels within its boundaries that do not constitute an eligible parcel;

(b) At least eighty percent of the eligible project area shall be located within a Missouri qualified census tract area, as designated by the United States Department of Housing and Urban Development under 26 U.S.C. Section 42, or within a distressed community as that term is defined in section 135.530, RSMo;

(c) The eligible parcels acquired by the applicant within the eligible project area shall total at least fifty acres, which may consist of contiguous and noncontiguous parcels;

(d) The average number of parcels per acre in an eligible project area shall be four or more;

(e) Less than five percent of the acreage within the boundaries of the eligible project area shall consist of owner-occupied residences which the applicant has identified for acquisition under the urban renewal plan or the redevelopment plan pursuant to which the applicant was appointed or selected as the redeveloper or by which the person or entity was qualified as an applicant under this section on the date of the approval or adoption of such plan;

(9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include attorney's fees;

(10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of removing trash, and costs of cutting grass and weeds;

(11) "Municipal authority", any city, town, village, county, public body corporate and politic, political subdivision, or land trust of this state established and authorized to own land within the state;

(12) "Municipality", any city, town, village, or county;

(13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or recorded as the property of, one or more persons or entities;

(14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan or urban renewal plan pursuant to which the conditions which provided the basis for an eligible project area to be included in a redevelopment plan or urban renewal plan are to be reduced or eliminated by redevelopment or rehabilitation; and

(15) "Redevelopment agreement", the redevelopment agreement or similar agreement into which the applicant entered with a municipal authority and which is the agreement for the implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant was appointed or selected as the redeveloper or by which the person or entity was qualified as an applicant under this section; and such appointment or selection shall have been approved by an ordinance of the governing body of the municipality, or municipalities, or in the case of any city not within a county, the board of aldermen, in which the eligible project area is located. The redevelopment agreement shall include a time line for redevelopment of the eligible project area. The redevelopment agreement shall state that the named developer shall be subject to the provisions of chapter 290, RSMo.

3. Any applicant shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo, in an

amount equal to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for a period of five years after the acquisition of an eligible parcel. No tax credits shall be issued under this section until after January 1, 2008.

4. If the amount of such tax credit exceeds the total tax liability for the year in which the applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed under chapters 143, 147, and 148, RSMo, for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265, RSMo. Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

5. A purchaser, transferee, or assignee of the tax credits authorized under this section may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo. A seller, transferor, or assignor shall perfect such transfer by notifying the department in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the department to administer and carry out the provisions of this section.

6. To claim tax credits authorized under this section, an applicant shall submit to the department an application for a certificate. An applicant shall identify the boundaries of the eligible project area in the application. The department shall verify that the applicant has submitted a valid application in the form and format required by the department. The department shall verify that the municipal authority held the requisite hearings and gave the requisite notices for such hearings in accordance with the applicable economic incentive act, and municipal ordinances. On an annual basis, an applicant may file for the tax credit for the acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this section. If an applicant applying for the tax credit meets the criteria required under this section, the department shall issue a certificate in the appropriate amount. If an applicant receives a tax credit for maintenance costs as a part of the applicant's acquisition costs, the department shall post on its Internet web site the amount and type of maintenance costs and a description of the redevelopment project for which the applicant received a tax credit within thirty days after the department issues the certificate to the applicant.

7. The total aggregate amount of tax credits authorized under this section shall not exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued under this section exceed ten million dollars. If the tax credits that are to be issued under this section exceed, in any year, the ten million dollar limitation, the department shall either:

(1) Issue tax credits to the applicant in the amount of ten million dollars, if there is only one applicant entitled to receive tax credits in that year; or

(2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits in that year. Any amount of tax credits, which an applicant is, or applicants are, entitled to receive on an annual basis and are not issued due to the ten million dollar limitation, shall be carried forward for the benefit of the applicant or applicants to subsequent years. No tax credits provided under this section shall be authorized after August 28, 2013. Any tax credits which have been authorized on or before August 28, 2013, but not issued, may be issued, subject to the limitations provided under this subsection, until all such authorized tax credits have been issued.

8. Upon issuance of any tax credits pursuant to this section, the department shall report to the municipal authority the applicant's name and address, the parcel numbers of the eligible parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for which tax credits were issued, and the total value of the tax credits issued. The municipal authority and the state shall not consider the amount of the tax credits as an applicant's cost, but shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created for the purpose of awarding other economic incentives. The amount of the tax credits shall not be considered an applicant's cost in the evaluation of the amount of any award of any other economic incentives, but shall be considered in measuring the reasonableness of the rate of return to the applicant with respect to such award of other economic incentives. The municipal authority shall provide the report to any relevant commission, board, or entity responsible for the evaluation and recommendation or approval of other economic incentives to assist in the redevelopment of the eligible project area. Tax credits authorized under this section shall constitute redevelopment tax credits, as such term is defined under section 135.800 RSMo, and shall be subject to all provisions applicable to redevelopment tax credits provided under sections 135.800 to 135.830 RSMo.

9. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

100.286. LOANS SECURED BY CERTAIN FUNDS — STANDARDS — INFORMATION REQUIRED — REVIEW AND CERTIFICATION BY PARTICIPATING LENDER — BOARD APPROVAL — FEE, TAX CREDIT, LIMITATION. — 1. Within the discretion of the board, the development and reserve fund, the infrastructure development fund or the export finance fund may be pledged to secure the payment of any bonds or notes issued by the board, or to secure the payment of any loan made by the board or a participating lender which loan:

- (1) Is requested to finance any project or export trade activity;
- (2) Is requested by a borrower who is demonstrated to be financially responsible;
- (3) Can reasonably be expected to provide a benefit to the economy of this state;
- (4) Is otherwise secured by a mortgage or deed of trust on real or personal property or other security satisfactory to the board; provided that loans to finance export trade activities may be secured by export accounts receivable or inventories of exportable goods satisfactory to the board;
- (5) Does not exceed five million dollars;
- (6) Does not have a term longer than five years if such loan is made to finance export trade activities; and
- (7) Is, when used to finance export trade activities, made to small or medium size businesses or agricultural businesses, as may be defined by the board.

2. The board shall prescribe standards for the evaluation of the financial condition, business history, and qualifications of each borrower and the terms and conditions of loans which may be secured, and may require each application to include a financial report and evaluation by an independent certified public accounting firm, in addition to such examination and evaluation as may be conducted by any participating lender.

3. Each application for a loan secured by the development and reserve fund, the infrastructure development fund or the export finance fund shall be reviewed in the first instance

by any participating lender to whom the application was submitted. If satisfied that the standards prescribed by the board are met and that the loan is otherwise eligible to be secured by the development and reserve fund, the infrastructure development fund or the export finance fund, the participating lender shall certify the same and forward the application for final approval to the board.

4. The securing of any loans by the development and reserve fund, the infrastructure development fund or the export finance fund shall be conditioned upon approval of the application by the board, and receipt of an annual reserve participation fee, as prescribed by the board, submitted by or on behalf of the borrower.

5. The securing of any loan by the export finance fund for export trade activities shall be conditioned upon the board's compliance with any applicable treaties and international agreements, such as the general agreement on tariffs and trade and the subsidies code, to which the United States is then a party.

6. Any taxpayer, **including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo**, shall be entitled to a tax credit against any tax otherwise due under the provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the amount of fifty percent of any amount contributed in money or property by the taxpayer to the development and reserve fund, the infrastructure development fund or the export finance fund during the taxpayer's tax year, provided, however, the total tax credits awarded in any calendar year beginning after January 1, 1994, shall not be the greater of ten million dollars or five percent of the average growth in general revenue receipts in the preceding three fiscal years. This limit may be exceeded only upon joint agreement by the commissioner of administration, the director of the department of economic development, and the director of the department of revenue that such action is essential to ensure retention or attraction of investment in Missouri. If the board receives, as a contribution, real property, the contributor at such contributor's own expense shall have two independent appraisals conducted by appraisers certified by the Master Appraisal Institute. Both appraisals shall be submitted to the board, and the tax credit certified by the board to the contributor shall be based upon the value of the lower of the two appraisals. The board shall not certify the tax credit until the property is deeded to the board. Such credit shall not apply to reserve participation fees paid by borrowers under sections 100.250 to 100.297. The portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years.

7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 6 of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or otherwise transfer earned tax credits:

- (1) For no less than seventy-five percent of the par value of such credits; and
- (2) In an amount not to exceed one hundred percent of annual earned credits.

The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five years, provided all such credits shall be claimed within ten years following the tax years in which the contribution was made. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the board in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the board to administer and carry out the provisions of this

section. Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the excess of the par value of such credit over the amount paid by the assignee for such credit shall be taxable as income of the assignee.

135.460. CITATION OF LAW — TAX CREDIT, AMOUNT, CLAIM, LIMITATION — ALLOWABLE PROGRAMS — REPORT — APPORTIONMENT OF CREDITS — RULEMAKING AUTHORITY. — 1. Section 135.460 and sections 620.1100 and 620.1103, RSMo, shall be known and may be cited as the "Youth Opportunities and Violence Prevention Act".

2. As used in this section, the term "taxpayer" shall include corporations as defined in section 143.441 or 143.471, RSMo, **any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** and individuals, individual proprietorships and partnerships.

3. A taxpayer shall be allowed a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, chapter 147, RSMo, chapter 148, RSMo, or chapter 153, RSMo, in an amount equal to thirty percent for property contributions and fifty percent for monetary contributions of the amount such taxpayer contributed to the programs described in subsection 5 of this section, not to exceed two hundred thousand dollars per taxable year, per taxpayer; except as otherwise provided in subdivision (5) of subsection 5 of this section. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

4. The tax credits allowed by this section shall be claimed by the taxpayer to offset the taxes that become due in the taxpayer's tax period in which the contribution was made. Any tax credit not used in such tax period may be carried over the next five succeeding tax periods.

5. The tax credit allowed by this section may only be claimed for monetary or property contributions to public or private programs authorized to participate pursuant to this section by the department of economic development and may be claimed for the development, establishment, implementation, operation, and expansion of the following activities and programs:

(1) An adopt-a-school program. Components of the adopt-a-school program shall include donations for school activities, seminars, and functions; school-business employment programs; and the donation of property and equipment of the corporation to the school;

(2) Expansion of programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;

(3) Employment programs. Such programs shall initially, but not exclusively, target unemployed youth living in poverty and youth living in areas with a high incidence of crime;

(4) New or existing youth clubs or associations;

(5) Employment/internship/apprenticeship programs in business or trades for persons less than twenty years of age, in which case the tax credit claimed pursuant to this section shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except that such credit shall not exceed ten thousand dollars per person;

- (6) Mentor and role model programs;
 - (7) Drug and alcohol abuse prevention training programs for youth;
 - (8) Donation of property or equipment of the taxpayer to schools, including schools which primarily educate children who have been expelled from other schools, or donation of the same to municipalities, or not-for-profit corporations or other not-for-profit organizations which offer programs dedicated to youth violence prevention as authorized by the department;
 - (9) Not-for-profit, private or public youth activity centers;
 - (10) Nonviolent conflict resolution and mediation programs;
 - (11) Youth outreach and counseling programs.
6. Any program authorized in subsection 5 of this section shall, at least annually, submit a report to the department of economic development outlining the purpose and objectives of such program, the number of youth served, the specific activities provided pursuant to such program, the duration of such program and recorded youth attendance where applicable.
7. The department of economic development shall, at least annually submit a report to the Missouri general assembly listing the organizations participating, services offered and the number of youth served as the result of the implementation of this section.
8. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1995.
9. For the purposes of the credits described in this section, in the case of a corporation described in section 143.471, RSMo, partnership, limited liability company described in section 347.015, RSMo, cooperative, marketing enterprise, or partnership, in computing Missouri's tax liability, such credits shall be allowed to the following:
- (1) The shareholders of the corporation described in section 143.471, RSMo;
 - (2) The partners of the partnership;
 - (3) The members of the limited liability company; and
 - (4) Individual members of the cooperative or marketing enterprise.

Such credits shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

135.478. DEFINITIONS. — As used in sections 135.481 to 135.487, the following terms mean:

- (1) "Department", the department of economic development;
 - (2) "Director", the director of the department of economic development;
 - (3) "Distressed community", as defined in section 135.530;
 - (4) "Eligible costs for a new residence", expenses incurred for property acquisition, development, site preparation other than demolition, surveys, architectural and engineering services and construction and all other necessary and incidental expenses incurred for constructing a new market rate residence, which is or will be owner-occupied, which is not replacing a national register listed or local historic structure; except that, costs paid for by the taxpayer with grants or forgivable loans, other than tax credits, provided pursuant to state or federal governmental programs are ineligible;
 - (5) "Eligible costs for rehabilitation", expenses incurred for the renovation or rehabilitation of an existing residence including site preparation, surveys, architectural and engineering services, construction, modification, expansion, remodeling, structural alteration, replacements and alterations; except that, costs paid for by the taxpayer with grants or forgivable loans other than tax credits provided pursuant to state or federal governmental programs are ineligible;
 - (6) "Eligible residence", a single-family residence forty years of age or older, located in this state and not within a distressed community as defined by section 135.530, which is occupied or intended to be or occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is either located within a United States census block group which, if in a metropolitan statistical area, has a median household income of less than ninety percent,
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but greater than or equal to seventy percent of the median household income for the metropolitan statistical area in which the census block group is located, or which, if located within a United States census block group in a nonmetropolitan area, has a median household income of less than ninety percent, but greater than or equal to seventy percent of the median household income for the nonmetropolitan areas in the state;

(7) "Flood plain", any land or area susceptible to being inundated by water from any source or located in a one hundred-year flood plain area determined by Federal Emergency Management Agency mapping as subject to flooding;

(8) "New residence", a residence constructed on land which if located within a distressed community has either been vacant for at least two years or is or was occupied by a structure which has been condemned by the local entity in which the structure is located or which, if located outside of a distressed community but within a census block group as described in subdivision (6) or (10) of this section, either replaces a residence forty years of age or older demolished for purposes of constructing a replacement residence, or which is constructed on vacant property which has been classified for not less than forty continuous years as residential or utility, commercial, railroad or other real property pursuant to article X, section 4(b) of the Missouri Constitution, as defined in section 137.016, RSMo; except that, no new residence shall be constructed in a flood plain or on property used for agricultural purposes. In a distressed community, the term "new residence" shall include condominiums, owner-occupied units or other units intended to be owner-occupied in multiple unit structures;

(9) "Project", new construction, rehabilitation or substantial rehabilitation of a residence that qualifies for a tax credit pursuant to sections 135.475 to 135.487;

(10) "Qualifying residence", a single-family residence, forty years of age or older, located in this state which is occupied or intended to be occupied long-term by the owner or offered for sale at market rate for owner-occupancy and which is located in a metropolitan statistical area or nonmetropolitan statistical area within a United States census block group which has a median household income of less than seventy percent of the median household income for the metropolitan statistical area or nonmetropolitan area, respectively, or which is located within a distressed community. A qualifying residence shall include a condominium or residence within a multiple residential structure or a structure containing multiple single-family residences which is located within a distressed community;

(11) "Substantial rehabilitation", rehabilitation the costs of which exceed fifty percent of either the purchase price or the cost basis of the structure immediately prior to rehabilitation; provided that, the structure is at least fifty years old notwithstanding any provision of sections 135.475 to 135.487 to the contrary;

(12) "Tax liability", the tax due pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo;

(13) "Taxpayer", any person, partnership, corporation, trust [or], limited liability company, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

135.500. TITLE OF LAW — DEFINITIONS. — 1. Sections 135.500 to 135.529 shall be known and may be cited as the "Missouri Certified Capital Company Law".

2. As used in sections 135.500 to 135.529, the following terms mean:

(1) "Affiliate of a certified company":

(a) Any person, directly or indirectly owning, controlling or holding power to vote ten percent or more of the outstanding voting securities or other ownership interests of the Missouri certified capital company;

(b) Any person ten percent or more of whose outstanding voting securities or other ownership interest are directly or indirectly owned, controlled or held with power to vote by the Missouri certified capital company;

(c) Any person directly or indirectly controlling, controlled by, or under common control with the Missouri certified capital company;

(d) A partnership in which the Missouri certified capital company is a general partner;

(e) Any person who is an officer, director or agent of the Missouri certified capital company or an immediate family member of such officer, director or agent;

(2) "Applicable percentage", one hundred percent;

(3) "Capital in a qualified Missouri business", any debt, equity or hybrid security, of any nature and description whatsoever, including a debt instrument or security which has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants which are acquired by a Missouri certified capital company or a qualified investing entity as a result of a transfer of cash to a business;

(4) "Certified capital", an investment of cash by an investor in a Missouri certified capital company;

(5) "Certified capital company", any partnership, corporation, trust or limited liability company, whether organized on a profit or not-for-profit basis, that is located, headquartered and registered to conduct business in Missouri that has as its primary business activity, the investment of cash in qualified Missouri businesses, and which is certified by the department as meeting the criteria of sections 135.500 to 135.529;

(6) "Department", the Missouri department of economic development;

(7) "Director", the director of the department of economic development or a person acting under the supervision of the director;

(8) "Investor", any insurance company that contributes cash;

(9) "Liquidating distribution", payments to investors or to the certified capital company from earnings;

(10) "Person", any natural person or entity, including a corporation, general or limited partnership, trust [or], limited liability company, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo;**

(11) "Qualified distribution", any distribution or payment to equity holders of a certified capital company in connection with the following:

(a) Reasonable costs and expenses of forming, syndicating, managing and operating the certified capital company;

(b) Management fees for managing and operating the certified capital company; and

(c) Any increase in federal or state taxes, penalties and interest, including those related to state and federal income taxes, of equity owners of a certified capital company which related to the ownership, management or operation of a certified capital company;

(12) "Qualified investing entity", any partnership, corporation, trust, or limited liability company, whether organized on a for-profit or not-for-profit basis, that:

(a) Is registered to do business in this state;

(b) Is a wholly owned subsidiary of a certified capital company or otherwise affiliated with and under common control with a certified capital company; and

(c) Has been designated as a qualified investing entity by such certified capital company. Such designation shall be effective upon delivery by the certified capital company of written notice of the designation to the department. A qualified investing entity may raise debt or equity capital for investment, but such capital shall not be considered certified capital. Any qualified investment made by a qualified investing entity after the effective date of this act shall be deemed to have been made by a certified capital company that designated the qualified investing entity as such; provided that no qualified investment may be deemed to have been made by more than one certified capital company;

(13) "Qualified investment", the investment of cash by a Missouri certified capital company or a qualified investing entity in such a manner as to acquire capital in a qualified Missouri business;

(14) "Qualified Missouri business", an independently owned and operated business, which is headquartered and located in Missouri and which is in need of venture capital and cannot obtain conventional financing. Such business shall have no more than two hundred employees, eighty percent of which are employed in Missouri. Such business shall be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, real estate development, insurance and professional services provided by accountants, lawyers or physicians. At the time a certified capital company or qualified investing entity makes an initial investment in a business, such business shall be a small business concern that meets the requirements of the United States Small Business Administration's qualification size standards for its venture capital program, as defined in Section 13 CFR 121.301 (c) of the Small Business Investment Act of 1958, as amended. Any business which is classified as a qualified Missouri business at the time of the first investment in such business by a Missouri certified capital company or qualified investing entity shall, for a period of seven years from the date of such first investment, remain classified as a qualified Missouri business and may receive follow-on investments from any Missouri certified capital company or qualified investing entity and such follow-on investments shall be qualified investments even though such business may not meet the other qualifications of this subsection at the time of such follow-on investments;

(15) "State premium tax liability", any liability incurred by an insurance company pursuant to the provisions of section 148.320, 148.340, 148.370 or 148.376, RSMo, and any other related provisions, which may impose a tax upon the premium income of insurance companies after January 1, 1997.

135.545. TAX CREDIT FOR INVESTING IN THE TRANSPORTATION DEVELOPMENT OF A DISTRESSED COMMUNITY — APPROVAL OF INVESTMENT BY ECONOMIC DEVELOPMENT, CREDIT CARRIED FORWARD, TRANSFER OF CERTIFICATE OF CREDIT, MAXIMUM AMOUNT ALLOWED. — A taxpayer shall be allowed a credit for taxes paid pursuant to chapter 143, 147 or 148, RSMo, in an amount equal to fifty percent of a qualified investment in transportation development for aviation, mass transportation, including parking facilities for users of mass transportation, railroads, ports, including parking facilities and limited access roads within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in a distressed community as defined in section 135.530, and which are part of a development plan approved by the appropriate local agency. If the department of economic development determines the investment has been so approved, the department shall grant the tax credit in order of date received. A taxpayer may carry forward any unused tax credit for up to ten years and may carry it back for the previous three years until such credit has been fully claimed. Certificates of tax credit issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee. The tax credits allowed pursuant to this section shall be for an amount of no more than ten million dollars for each year. This credit shall apply to returns filed for all taxable years beginning on or after January 1, 1999. Any unused portion of the tax credit authorized pursuant to this section shall be available for use in the future by those entities until fully claimed. **For purposes of this section, a "taxpayer" shall include any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

135.550. DEFINITIONS — TAX CREDIT, AMOUNT — LIMITATIONS — DIRECTOR OF SOCIAL SERVICES DETERMINATIONS, CLASSIFICATION OF SHELTERS — EFFECTIVE DATE. —
1. As used in this section, the following terms shall mean:

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Shelter for victims of domestic violence", a facility located in this state which meets the definition of a shelter for victims of domestic violence pursuant to section 455.200, RSMo, and which meets the requirements of section 455.220, RSMo;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a shelter for victims of domestic violence.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a shelter or shelters for victims of domestic violence in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as shelters for victims of domestic violence. The director of the department of social services may require of a facility seeking to be classified as a shelter for victims of domestic violence whatever information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a shelter for victims of domestic violence if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a shelter for victims of domestic violence, and by which such taxpayer can then contribute to such shelter for victims of domestic violence and claim a tax credit. Shelters for victims of domestic violence shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to shelters for victims of domestic violence in any one fiscal year shall not exceed two million dollars.

7. The director of the department of social services shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of social services, the cumulative amount of tax credits are equally apportioned among all facilities classified as shelters for victims of domestic violence. If a shelter for victims of domestic violence fails to use all, or some percentage to be

determined by the director of the department of social services, of its apportioned tax credits during this predetermined period of time, the director of the department of social services may reapportion these unused tax credits to those shelters for victims of domestic violence that have used all, or some percentage to be determined by the director of the department of social services, of their apportioned tax credits during this predetermined period of time. The director of the department of social services may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of social services shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

135.600. DEFINITIONS — TAX CREDIT, AMOUNT — LIMITATIONS — DIRECTOR OF SOCIAL SERVICES DETERMINATIONS, CLASSIFICATION OF MATERNITY HOMES — EFFECTIVE DATE. — 1. As used in this section, the following terms shall mean:

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Maternity home", a residential facility located in this state established for the purpose of providing housing and assistance to pregnant women who are carrying their pregnancies to term, and which is exempt from income taxation under the United States Internal Revenue Code;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a maternity home.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a maternity home or homes in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director of the department of social services shall determine, at least annually, which facilities in this state may be classified as maternity homes. The director of the department of social services may require of a facility seeking to be classified as a maternity home whatever

information is reasonably necessary to make such a determination. The director of the department of social services shall classify a facility as a maternity home if such facility meets the definition set forth in subsection 1 of this section.

6. The director of the department of social services shall establish a procedure by which a taxpayer can determine if a facility has been classified as a maternity home, and by which such taxpayer can then contribute to such maternity home and claim a tax credit. Maternity homes shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to maternity homes in any one fiscal year shall not exceed two million dollars.

7. The director of the department of social services shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of social services, the cumulative amount of tax credits are equally apportioned among all facilities classified as maternity homes. If a maternity home fails to use all, or some percentage to be determined by the director of the department of social services, of its apportioned tax credits during this predetermined period of time, the director of the department of social services may reapportion these unused tax credits to those maternity homes that have used all, or some percentage to be determined by the director of the department of social services, of their apportioned tax credits during this predetermined period of time. The director of the department of social services may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of social services shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

135.630. TAX CREDIT FOR CONTRIBUTIONS TO PREGNANCY RESOURCE CENTERS, DEFINITIONS — AMOUNT — LIMITATIONS — DETERMINATION OF QUALIFYING CENTERS — CUMULATIVE AMOUNT OF CREDITS — APPORTIONMENT PROCEDURE, REAPPORTIONMENT OF CREDITS — IDENTITY OF CONTRIBUTORS PROVIDED TO DIRECTOR, CONFIDENTIALITY — TRANSFER OF CREDITS — SUNSET PROVISION. — 1. As used in this section, the following terms mean:

(1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

(2) "Director", the director of the department of social services;

(3) "Pregnancy resource center", a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed; and

(c) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions; and

(d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and

(e) Which provides its services at no cost to its clients; and

(f) When providing medical services, such medical services must be performed in accordance with Missouri statute; and

(g) Which is exempt from income taxation pursuant to the Internal Revenue Code of 1986, as amended;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo, excluding

sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

2. For all tax years beginning on or after January 1, 2007, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of the amount such taxpayer contributed to a pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which facilities in this state may be classified as pregnancy resource centers. The director may require of a facility seeking to be classified as a pregnancy resource center whatever information which is reasonably necessary to make such a determination. The director shall classify a facility as a pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as a pregnancy resource center. Pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to pregnancy resource centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued in the order contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all facilities classified as pregnancy resource centers. If a pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the pregnancy resource center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall

provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. Notwithstanding any other law to the contrary, any tax credits granted under this section may be assigned, transferred, sold, or otherwise conveyed without consent or approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell, assign, exchange, or otherwise transfer earned tax credits:

- (1) For no less than seventy-five percent of the par value of such credits; and**
- (2) In an amount not to exceed one hundred percent of annual earned credits.**

10. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) Any new program authorized under this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

135.679. CITATION — DEFINITIONS — TAX CREDIT, AMOUNT, CLAIM PROCEDURE — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Qualified Beef Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Agricultural property", any real and personal property, including but not limited to buildings, structures, improvements, equipment, and livestock, that is used in or is to be used in this state by residents of this state for:

- (a) The operation of a farm or ranch; and
- (b) Grazing, feeding, or the care of livestock;

(2) "Authority", the agricultural and small business development authority established in chapter 348, RSMo;

(3) "Backgrounded", any additional weight at the time of the first qualifying sale, before being finished, above the established baseline weight;

(4) "Baseline weight", the average weight in the immediate past three years of all beef animals sold that are thirty months of age or younger, categorized by sex. Baseline weight for qualified beef animals that are physically out-of-state but whose ownership is retained by a resident of this state shall be established by the average transfer weight in the immediate past three years of all beef animals that are thirty months of age or younger and that are transferred out-of-state but whose ownership is retained by a resident of this state, categorized by sex. The established baseline weight shall be effective for a period of three years. If the taxpayer is a qualifying beef animal producer with fewer than three years of production, the baseline weight shall be established by the available average weight in the immediate past year of all beef animals sold that are thirty months of age or younger, categorized by sex. If the qualifying beef animal producer has no previous production, the baseline weight shall be established by the authority;

(5) "Finished", the period from backgrounded to harvest;

(6) "Qualifying beef animal", any beef animal that is certified by the authority, that was born in this state after August 28, 2008, that was raised and backgrounded or finished in this state by the taxpayer, excluding any beef animal more than thirty months of age as verified by certified written birth records;

(7) "Qualifying sale", the first time a qualifying beef animal is sold in this state after the qualifying beef animal is backgrounded, and a subsequent sale if the weight of the qualifying beef animal at the time of the subsequent sale is greater than the weight of the qualifying beef animal at the time of the first qualifying sale of such beef animal;

(8) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due under chapter 147, RSMo;

(9) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, RSMo;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or in the absence of a 911 system, a physical address; and

(c) Owns or rents agricultural property and principal place of business is located in this state.

3. For all taxable years beginning on or after January 1, 2009, but ending on or before December 31, 2016, a taxpayer shall be allowed a tax credit for the first qualifying sale and for a subsequent qualifying sale of all qualifying beef animals. The tax credit amount for the first qualifying sale shall be ten cents per pound, shall be based on the backgrounded weight of all qualifying beef animals at the time of the first qualifying sale, and shall be calculated as follows: the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than two hundred pounds above the baseline weight. The tax credit amount for each subsequent qualifying sale shall be ten cents per pound, shall be based on the backgrounded weight of all qualifying beef animals at the time of the subsequent qualifying sale, and shall be calculated as follows: the qualifying sale weight minus the baseline weight multiplied by ten cents, as long as the qualifying sale weight is equal to or greater than two hundred pounds above the baseline weight. The authority may waive no more than twenty-five percent of the two hundred pound weight gain requirement, but any such waiver shall be based on a disaster declaration issued by the U. S. Department of Agriculture.

4. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed. No tax credit claimed under this section shall be refundable. The tax credit shall be claimed in the taxable year in which the qualifying sale of the qualifying beef occurred, but any amount of credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years and carried backward to any of the taxpayer's three previous taxable years. The amount of tax credits that may be issued to all eligible applicants claiming tax credits authorized in this section in a fiscal year shall not exceed three million dollars. Tax credits shall be issued on an as-received application basis until the fiscal year limit is reached. Any credits not issued in any fiscal year shall expire and shall not be issued in any subsequent years.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a qualified sale was made and for which a tax credit is claimed under this section. The application shall include any certified documentation and information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the qualified sale meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. Whenever a tax credit certificate is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate or the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

7. The authority may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. This section shall not be subject to the Missouri sunset act, sections 23.250 to 23.298, RSMo.

135.680. DEFINITIONS — TAX CREDIT, AMOUNT — RECAPTURE, WHEN — RULEMAKING AUTHORITY — REAUTHORIZATION PROCEDURE — SUNSET DATE. — 1. As used in this section, the following terms shall mean:

(1) "Adjusted purchase price", the product of:

(a) The amount paid to the issuer of a qualified equity investment for such qualified equity investment; and

(b) The following fraction:

a. The numerator shall be the dollar amount of qualified low-income community investments held by the issuer in this state as of the credit allowance date during the applicable tax year; and

b. The denominator shall be the total dollar amount of qualified low-income community investments held by the issuer in all states as of the credit allowance date during the applicable tax year;

c. For purposes of calculating the amount of qualified low-income community investments held by an issuer, an investment shall be considered held by an issuer even if the investment has been sold or repaid; provided that the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within twelve months of the receipt of such capital. An issuer shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

(2) "Applicable percentage", zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date, and eight percent for the next four credit allowance dates;

(3) "Credit allowance date", with respect to any qualified equity investment:

(a) The date on which such investment is initially made; and

(b) Each of the six anniversary dates of such date thereafter;

(4) "Long-term debt security", any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date, and with no distribution, payment, or interest features related to the profitability of the qualified community development entity or the performance of the qualified community development entity's investment portfolio. The foregoing shall in no way limit the holder's ability to accelerate

payments on the debt instrument in situations where the issuer has defaulted on covenants designed to ensure compliance with this section or Section 45D of the Internal Revenue Code of 1986, as amended;

(5) "Qualified active low-income community business", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business that derives or projects to derive fifteen percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business;

(6) "Qualified community development entity", the meaning given such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri within the service area set forth in such allocation agreement;

(7) "Qualified Equity Investment", any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after the effective date of this section at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent of its cash purchase price used by the issuer to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment under this subdivision and is certified by the department of economic development as not exceeding the limitation contained in subsection 2 of this section.

This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified equity investment in the hands of a prior holder;

(8) "Qualified low-income community investment", any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator described in subparagraph (a) of paragraph (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or several qualified community development entities;

(9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

(10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits under this section. On each credit allowance date of such qualified equity investment the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date. The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax credits earned by a partnership, limited liability company, S-corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders. Any

amount of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable years. The department of economic development shall limit the monetary amount of qualified equity investments permitted under this section to a level necessary to limit tax credit utilization at no more than fifteen million dollars of tax credits in any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

3. The issuer of the qualified equity investment shall certify to the department of economic development the anticipated dollar amount of such investments to be made in this state during the first twelve-month period following the initial credit allowance date. If on the second credit allowance date, the actual dollar amount of such investments is different than the amount estimated, the department of economic development shall adjust the credits arising on the second allowance date to account for such difference.

4. The department of economic development shall recapture the tax credit allowed under this section with respect to such qualified equity investment under this section if:

(1) Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(2) The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment.

Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the tax credit on a return.

5. The department of economic development shall promulgate rules to implement the provisions of this section, including recapture provisions on a scaled proportional basis, and to administer the allocation of tax credits issued for qualified equity investments, which shall be conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

6. For fiscal years following fiscal year 2010, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253, RSMo, from claiming tax credits relating to such qualified equity investment for each credit allowance date.

135.750. TAX CREDIT FOR QUALIFIED FILM PRODUCTION PROJECTS — DEFINITIONS — APPLICATION — CAP — TRANSFER OF CREDITS — SUNSET DATE. — 1. As used in this section, the following terms mean:

(1) "Highly compensated individual", any individual who receives compensation in excess of one million dollars in connection with a single qualified film production project;

(2) "Qualified film production project", any film, video, commercial, or television production, as approved by the department of economic development and the office of the Missouri film commission, that is under thirty minutes in length with an expected in-state expenditure budget in excess of fifty thousand dollars, or that is over thirty minutes in length with an expected in-state expenditure budget in excess of one hundred thousand dollars. Regardless of the production costs, "qualified film production project" shall not include any:

(a) News or current events programming;

(b) Talk show;

(c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;

(d) Sports event or sports program;

(e) Gala presentation or awards show;

(f) Infomercial or any production that directly solicits funds;

(g) Political ad;

(h) Production that is considered obscene, as defined in section 573.010, RSMo;

(3) "Qualifying expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified film production project:

(a) Goods and services leased or purchased by the production company. For goods with a purchase price of twenty-five thousand dollars or more, the amount included in qualifying expenses shall be the purchase price less the fair market value of the goods at the time the production is completed;

(b) Compensation and wages paid by the production company on which the production company remitted withholding payments to the department of revenue under chapter 143, RSMo. For purposes of this section, compensation and wages shall not include any amounts paid to a highly compensated individual;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due under chapter 148, RSMo;

(5) "Taxpayer", any individual, partnership, or corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, that is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 148, RSMo, or any charitable organization which

is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.

2. For all taxable years beginning on or after January 1, 1999, but ending on or before December 31, 2007, a taxpayer shall be granted a tax credit [against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo,] for up to fifty percent of the amount of investment in production or production-related activities in [a qualified film production project. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, and the term "qualified film production project" means] any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. **For all taxable years beginning on or after January 1, 2008, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of qualifying expenses in a qualified film production project.** Each film production company shall be limited to one qualified film production project per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

[2.] **3.** Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production project. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.

[3.] **4. For all taxable years ending on or before December 31, 2007,** tax credits certified pursuant to subsection 1 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year. **For all taxable years beginning on or after January 1, 2008, tax credits certified under subsection 1 of this section shall not exceed a total for all tax credits certified of four million five hundred thousand dollars per year.** Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

[4.] **5.** Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 1 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to [143.261] **143.265**, RSMo, or chapter 148, RSMo. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

6. Under section 23.253, RSMo, of the Missouri sunset act:

(1) **The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and**

(2) **If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and**

(3) **This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.**

135.950. DEFINITIONS. — The following terms, whenever used in sections 135.950 to 135.970 mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Board", an enhanced enterprise zone board established pursuant to section 135.957;

(3) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;

(4) "Department", the department of economic development;

(5) "Director", the director of the department of economic development;

(6) "Employee", [a person employed by the enhanced business enterprise on:

(a) A regular, full-time basis;

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed] **a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;**

(7) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

(a) Identified by the department as critical to the state's economic security and growth; or

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), **educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92),** and food and drinking places (NAICS subsector 722), **however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied.** Service industries may be eligible only if a majority of its annual revenues will be derived from [services provided] out of the state;

(8) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(9) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(10) **"Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;**

(11) **"Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility**

in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

(12) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

[(11)] (13) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

[(12)] (14) "New business facility", a facility that satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision [(16)] (22) of this section;

[(13)] (15) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

[(14)] (16) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the

portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(17) "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

(18) "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

(19) "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

(20) "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent; or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

[(15)] (21) "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer;

or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(16)] (22) "Replacement business facility", a facility otherwise described in subdivision [(12)] (14) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision [(14)] (16) of this section, in the new facility during the tax period for which the credits allowed in section 135.967 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

[(17)] (23) "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

135.963. IMPROVEMENTS EXEMPT, WHEN — AUTHORIZING RESOLUTION, CONTENTS — PUBLIC HEARING REQUIRED, NOTICE — CERTAIN PROPERTY EXEMPT FROM AD VALOREM TAXES, DURATION — TIME PERIOD — PROPERTY AFFECTED — ASSESSOR'S DUTIES. — 1. Improvements made to real property as such term is defined in section 137.010, RSMo, which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated, may, upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. **In addition to enhanced business enterprises, a speculative industrial or warehouse building constructed by a public entity or a private entity if the land is leased by a public entity may be subject to such exemption.**

2. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy of the resolution shall be provided to the director within thirty calendar days following adoption of the resolution by the governing authority.

3. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enhanced enterprise zone **of enhanced business enterprises or speculative industrial or warehouse buildings as indicated in subsection 1 of this section** shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for enhanced business enterprises. **The exemption for speculative buildings is subject to the approval of the governing authority for a period not to exceed two years, if the building is owned by a private entity and five years if the building is owned or ground leased by a public entity. This shall not preclude the building receiving an exemption for the remaining time period established by the governing authority if it was occupied by an enhanced business enterprise. The two and five year time periods indicated for speculative buildings shall not be an addition to the local abatement time period for such facility.**

5. No exemption shall be granted for a period more than twenty-five years following the date on which the original enhanced enterprise zone was designated by the department.

6. The provisions of subsection 1 of this section shall not apply to improvements made to real property begun prior to August 28, 2004.

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section 99.855, 99.957, or 99.1042, RSMo, and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or subdivision (2) of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.967. TAX CREDIT ALLOWED, DURATION — PROHIBITION ON RECEIVING OTHER TAX CREDITS — LIMITATIONS ON ISSUANCE OF TAX CREDITS — CAP — ELIGIBILITY OF

CERTAIN EXPANSIONS — EMPLOYEE CALCULATIONS — COMPUTATION OF CREDIT — FLOW-THROUGH TAX TREATMENTS — CREDITS MAY BE CLAIMED, WHEN — CERTIFICATES — REFUNDS — VERIFICATION PROCEDURES.

1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to 135.268, or section 135.535.

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than [seven] **fourteen** million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision [(12)] **(14)** of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new

business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(12)] (14) of section 135.950, or subdivision [(16)] (22) of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee who is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(12)] (14) of section 135.950 or subdivision [(16)] (22) of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision [(12)] (14) of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

14. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits,

except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

135.1150. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT — CLAIM APPLICATION — LIMITATION — TRANSFERABILITY OF CREDIT — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

2. As used in this section, the following terms mean:

- (1) "Certificate", a tax credit certificate issued under this section;
- (2) "Department", the Missouri department of social services;
- (3) "Eligible donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;
- (4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the agency which are licensed and accredited;
- (5) "Taxpayer", any of the following individuals or entities who make an eligible donation to an agency:
 - (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143, RSMo;
 - (b) A corporation subject to the annual corporation franchise tax imposed in chapter 147, RSMo;
 - (c) An insurance company paying an annual tax on its gross premium receipts in this state;
 - (d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148, RSMo;
 - (e) An individual subject to the state income tax imposed in chapter 143, RSMo;
 - (f) **Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The

amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

- (1) A valid application in the form and format required by the department;
- (2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the agency; and
- (3) Payment from the agency equal to the value of the tax credit for which application is made.

If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed forty percent of the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. Under section 23.253, RSMo, of the Missouri sunset act:

- (1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and
- (2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and
- (3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and

144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. **There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials.** For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen,

home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of subsection 2 of this section;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located

outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo.

173.196. BUSINESS FIRM MAY MAKE DONATION TO HIGHER EDUCATION SCHOLARSHIP DONATION FUND, TAX CREDIT — AMOUNT OF CREDIT, LIMITATIONS, CARRY-OVER, TRANSFER — USE OF FUND — TAX CREDITS PROHIBITED, WHEN. — 1. Any business firm, as defined in section 32.105, RSMo, may make a donation to the "Missouri Higher Education Scholarship Donation Fund", which is hereby created in the state treasury. A donating business firm shall receive a tax credit as provided in this section equal to fifty percent of the amount of the donation, except that tax credits shall be awarded each fiscal year in the order donations are received and the amount of tax credits authorized shall total no more than two hundred and fifty thousand dollars for each fiscal year.

2. The department of revenue shall grant tax credits approved under this section which shall be applied in the order specified in subsection 1 of section 32.115, RSMo, until used. The tax credits provided under this section shall be refundable, and any tax credit not used in the fiscal year in which approved may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. **Notwithstanding any other law to the contrary, any tax credits granted under this section may be assigned, transferred, sold, or otherwise conveyed without consent or approval. Such taxpayer, hereinafter the assignor for purposes of this section, may sell, assign, exchange, or otherwise transfer earned tax credits:**

(1) **For no less than seventy-five percent of the par value of such credits; and**

(2) **In an amount not to exceed one hundred percent of annual earned credits.**

3. No tax credit authorized under this section may be applied against any tax applied in a tax year beginning prior to January 1, 1995.

4. All revenues credited to the fund shall be used, subject to appropriations, to provide scholarships authorized under sections 173.197 to 173.199, and for no other purpose.

5. For all tax years beginning on or after January 1, 2005, no tax credits shall be authorized, awarded, or issued to any person or entity claiming any tax credit under this section.

173.796. TAX CREDIT FOR DONATIONS TO FUND — TAX CREDITS PROHIBITED, WHEN. — 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441 or 143.471, RSMo, **and includes any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo.**

2. Any taxpayer may make a contribution to the fund. Within the limits specified in subsection 3 of this section, a taxpayer shall be allowed a credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to 143.265, RSMo, on that individual or entity of up to fifty percent of the total amount contributed to the fund, not to exceed one hundred thousand dollars per taxpayer.

3. The department of revenue shall administer the tax credits pursuant to this section, and shall certify eligibility for the tax credits in the order applications are received. The total amount of tax credits certified in any one calendar year shall not exceed five million dollars annually. Contributions of up to one hundred thousand dollars per annum per taxpayer may be certified by the department of revenue as a qualified contribution for purposes of receiving a tax credit under this program.

4. If the amount of tax credit exceeds the total tax liability for the year in which the tax credit is claimed, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to

143.265, RSMo, for the succeeding ten years, or until the full credit is used, whichever occurs first.

5. For all tax years beginning on or after January 1, 2005, no tax credits shall be authorized, awarded, or issued to any person or entity claiming any tax credit under this section.

6. The provisions of this section shall become effective January 1, 1999.

178.716. VOCATIONAL SCHOOL DISTRICTS PERMITTED, PROCEDURE (BUTLER, STODDARD, WAYNE, RIPLEY, NEW MADRID, PEMISCOT, DUNKLIN, MISSISSIPPI, CAPE GIRARDEAU, BOLLINGER, AND SCOTT COUNTIES). — 1. Residents of a county of the third classification without a township form of government and with more than forty thousand eight hundred but fewer than forty thousand nine hundred inhabitants, a county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants, a county of the third classification without a township form of government and with more than thirteen thousand two hundred but fewer than thirteen thousand three hundred inhabitants, a county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants, a county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants, a county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, a county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants, a county of the third classification without a township form of government and with more than thirteen thousand four hundred but fewer than thirteen thousand five hundred inhabitants, a county of the first classification with more than sixty-eight thousand six hundred but fewer than sixty-eight thousand seven hundred inhabitants, a county of the third classification without a township form of government and with more than twelve thousand but fewer than twelve thousand one hundred inhabitants, and a county of the third classification without a township form of government and with more than forty thousand four hundred but fewer than forty thousand five hundred inhabitants may organize a vocational school district in the manner provided in sections 178.770 to 178.780. Prior to the organization of a district under sections 178.770 to 178.890, the coordinating board for higher education shall establish standards for the organization of the district which shall include among other things:

- (1) Whether a vocational school is needed in the proposed district;
- (2) Whether the assessed valuation of taxable, tangible property in the proposed district is sufficient to adequately support the proposed vocational school; and
- (3) Whether there were a sufficient number of graduates of high school in the proposed district during the preceding year to support a vocational school in the proposed district.

2. When a district is organized, it shall be a body corporate and a subdivision of the state of Missouri and shall be known as "The Vocational School District of, Missouri" and, in that name, may sue and be sued, levy and collect taxes within the limitations of sections 178.770 to 178.890, issue bonds and possess the same corporate powers as common and seven-director school districts in this state, other than urban districts, except as herein otherwise provided.

178.895. CERTIFICATES, ISSUE OF, SALE OF — REFUNDING CERTIFICATES, ISSUED WHEN — PROCEDURE ON ISSUANCE — NOT DEEMED INDEBTEDNESS OF STATE OR POLITICAL SUBDIVISION — RULES AND REGULATIONS, DEPARTMENT OF ECONOMIC DEVELOPMENT TO PROMULGATE, PROCEDURE — TERMINATION OF SALES OF

CERTIFICATES, WHEN. — 1. To provide funds for the present payment of the costs of new jobs training programs, a community college district may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement including disbursements from the Missouri community college job training program to the special fund established by the district for each project. The total amount of outstanding certificates sold by all junior college districts shall not exceed twenty million dollars, unless an increased amount is authorized in writing by a majority of members of the Missouri job training joint legislative oversight committee. The certificates shall be marketed through financial institutions authorized to do business in Missouri. The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board of trustees, and may bear interest at such rate or rates as the board of trustees shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. However, chapter 176, RSMo, does not apply to the issuance of these certificates. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of trustees may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. They may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

3. Before certificates are issued, the board of trustees shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice, by action in the circuit court of a county in the district, appeal the decision of the board of trustees to issue the certificates. The action of the board of trustees in determining to issue the certificates is final and conclusive unless the circuit court finds that the board of trustees has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of trustees to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

4. The board of trustees shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

5. Certificates issued under this section shall not be deemed to be an indebtedness of the state or the community college district or of any other political subdivision of the state and the principal and interest on such certificates shall be payable only from the sources provided in subdivision (1) of section 178.893 which are pledged in the agreement.

6. The department of economic development shall coordinate the new jobs training program, and may promulgate rules that districts will use in developing projects with new and expanding industrial new jobs training proposals which shall include rules providing for the coordination of such proposals with the service delivery areas established in the state to administer federal funds pursuant to the federal Job Training Partnership Act. No rule or portion of a rule promulgated under the authority of sections 178.892 to 178.896 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of

the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

7. No community college district may sell certificates as described in this section after July 1, [2008] **2018**.

178.896. COMMUNITY COLLEGE JOB TRAINING PROGRAM FUND ESTABLISHED — ADMINISTRATION — EXPIRATION DATE. — 1. There is hereby established within the state treasury a special fund, to be known as the "Missouri Community College Job Training Program Fund", to be administered by the division of job development and training. The department of revenue shall credit to the community college job training program fund, as received, all new jobs credit from withholding remitted by employers pursuant to section 178.894. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. The general assembly, however, shall not provide for any transfer of general revenue funds into the community college job training program fund. Moneys in the Missouri community college job training program fund shall be disbursed to the division of job development and training pursuant to regular appropriations by the general assembly. The division shall disburse such appropriated funds in a timely manner into the special funds established by community college districts for projects, which funds shall be used to pay program costs, including the principal of, premium, if any, and interest on certificates issued by the district to finance or refinance, in whole or in part, a project. Such disbursements by the division of job development and training shall be made to the special fund for each project in the same proportion as the new jobs credit from withholding remitted by the employer participating in such project bears to the total new jobs credit from withholding remitted by all employers participating in projects during the period for which the disbursement is made. Moneys for new jobs training programs established under the provisions of sections 178.892 to 178.896 shall be obtained from appropriations made by the general assembly from the Missouri community college job training program fund. All moneys remaining in the Missouri community college job training program fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri community college job training program fund.

2. The department of revenue shall develop such forms as are necessary to demonstrate accurately each employer's new jobs credit from withholding paid into the Missouri community college job training program fund. The new jobs credit from withholding shall be accounted as separate from the normal withholding tax paid to the department of revenue by the employer. Reimbursements made by all employers to the Missouri community college job training program fund shall be no less than all allocations made by the division of job development and training to all community college districts for all projects. The employer shall remit the amount of the new job credit to the department of revenue in the same manner as provided in sections 143.191 to 143.265, RSMo.

3. Sections 178.892 to 178.896 shall expire July 1, [2018] **2028**.

348.300. DEFINITIONS. — As used in sections 348.300 to 348.318, the following terms mean:

(1) "Commercial activity located in Missouri", any research, development, prototype fabrication, and subsequent precommercialization activity, or any activity related thereto, conducted in Missouri for the purpose of producing a service or a product or process for manufacture, assembly or sale or developing a service based on such a product or process by any person, corporation, partnership, joint venture, unincorporated association, trust or other organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity

located in Missouri shall mean only such activity that is located within a distressed community, as defined in section 135.530, RSMo;

(2) "Follow-up capital", capital provided to a commercial activity located in Missouri in which a qualified fund has previously invested seed capital or start-up capital and which does not exceed ten times the amount of such seed and start-up capital;

(3) **"Person", any individual, corporation, partnership, or other entity, including any charitable corporation which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo;**

(4) "Qualified contribution", cash contribution to a qualified fund;

[(4)] (5) "Qualified economic development organization", any corporation organized under the provisions of chapter 355, RSMo, which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266;

[(5)] (6) "Qualified fund", any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266, this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

[(6)] (7) "Qualified investment", any investment of seed capital, start-up capital, or follow-up capital in any commercial activity located in Missouri;

[(7) "Person", any individual, corporation, partnership or other entity;]

(8) "Seed capital", capital provided to a commercial activity located in Missouri for research, development and precommercialization activities to prove a concept for a new product or process or service, and for activities related thereto;

(9) "Start-up capital", capital provided to a commercial activity located in Missouri for use in preproduction product development or service development or initial marketing thereof, and for activities related thereto;

(10) "State tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147 and 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

(11) "Uninvested capital", the amount of any distribution, other than of earnings, by a qualified fund made within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund which are not invested as qualified investments within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so invested exceeds ten percent of all such qualified contributions.

620.495. SMALL BUSINESS INCUBATOR PROGRAM — DEFINITIONS — TAX CREDIT. —

1. This section shall be known as the "Small Business Incubators Act".

2. As used in this section, unless the context clearly indicates otherwise, the following words and phrases shall mean:

(1) "Department", the department of economic development;

(2) "Incubator", a program in which small units of space may be leased by a tenant and in which management maintains or provides access to business development services for use by tenants or a program without infrastructure in which participants avail themselves of business development services to assist in the growth of their start-up small businesses;

(3) "Local sponsor" or "sponsor", an organization which enters into a written agreement with the department to establish, operate and administer a small business incubator program or to provide funding to an organization which operates such a program;

(4) "Participant", a sole proprietorship, business partnership or corporation operating a business for profit through which the owner avails himself or herself of business development services in an incubator program;

(5) "Tenant", a sole proprietorship, business partnership or corporation operating a business for profit and leasing or otherwise occupying space in an incubator.

3. There is hereby established under the direction of the department a loan, loan guarantee and grant program for the establishment, operation and administration of small business incubators, to be known as the "Small Business Incubator Program". A local sponsor may submit an application to the department to obtain a loan, loan guarantee or grant to establish an incubator. Each application shall:

(1) Demonstrate that a program exists that can be transformed into an incubator at a specified cost;

(2) Demonstrate the ability to directly provide or arrange for the provision of business development services for tenants and participants of the incubator. These services shall include, but need not be limited to, financial consulting assistance, management and marketing assistance, business education, and physical services;

(3) Demonstrate a potential for sustained use of the incubator program by eligible tenants and participants, through a market study or other means;

(4) Demonstrate the ability to manage and operate the incubator program;

(5) Include such other information as the department may require through its guidelines.

4. The department shall review and accept applications based on the following criteria:

(1) Ability of the local sponsor to carry out the provisions of this section;

(2) Economic impact of the incubator on the community;

(3) Conformance with areawide and local economic development plans, if such exist;

(4) Location of the incubator, in order to encourage geographic distribution of incubators across the state.

5. Loans, loan guarantees and grants shall be administered in the following manner:

(1) Loans awarded or guaranteed and grants awarded shall be used only for the acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other facilities, construction of new facilities, the purchase of equipment and furnishings which are necessary for the creation and operation of the incubator, and business development services including, but not limited to, business management advising and business education;

(2) Loans, loan guarantees and grants may not exceed fifty percent of total eligible project costs;

(3) Payment of interest and principal on loans may be deferred at the discretion of the department.

6. A local sponsor, or the organization receiving assistance through the local sponsor, shall have the following responsibilities and duties in establishing and operating an incubator with assistance from the small business incubator program:

(1) Secure title on a facility for the program or a lease of a facility for the program;

(2) Manage the physical development of the incubator program, including the provision of common conference or meeting space;

(3) Furnish and equip the program to provide business services to the tenants and participants;

(4) Market the program and secure eligible tenants and participants;

(5) Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants and participants of the incubator, including assistance in accessing private financial markets;

(6) Set rental and service fees;

(7) Encourage the sharing of ideas between tenants and participants and otherwise aid the tenants and participants in an innovative manner while they are within the incubator;

(8) Establish policies and criteria for the acceptance of tenants and participants into the incubator and for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants, consistent with those specified in this section.

7. The department:

(1) May adopt such rules, statements of policy, procedures, forms and guidelines as may be necessary for the implementation of this section;

(2) May make loans, loan guarantees and grants to local sponsors for incubators;

(3) Shall ensure that local sponsors receiving loans, loan guarantees or grants meet the conditions of this section;

(4) Shall receive and evaluate annual reports from local sponsors. Such annual reports shall include, but need not be limited to, a financial statement for the incubator, evidence that all tenants and participants in the program are eligible under the terms of this section, and a list of companies in the incubator.

8. The department of economic development is also hereby authorized to review any previous loans made under this program and, where appropriate in the department's judgment, convert such loans to grant status.

9. On or before January first of each year, the department shall provide a report to the governor, the chief clerk of the house of representatives and the secretary of the senate which shall include, but need not be limited to:

(1) The number of applications for incubators submitted to the department;

(2) The number of applications for incubators approved by the department;

(3) The number of incubators created through the small business incubator program;

(4) The number of tenants and participants engaged in each incubator;

(5) The number of jobs provided by each incubator and tenants and participant of each incubator;

(6) The occupancy rate of each incubator;

(7) The number of firms still operating in the state after leaving incubators and the number of jobs they have provided.

10. There is hereby established in the state treasury a special fund to be known as the "Missouri Small Business Incubators Fund", which shall consist of all moneys which may be appropriated to it by the general assembly, and also any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys for loans, loan guarantees and grants under the small business incubator program may be obtained from appropriations made by the general assembly from the Missouri small business incubators fund. Any moneys remaining in the Missouri small business incubators fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri small business incubators fund.

11. For any taxable year beginning after December 31, 1989, a taxpayer, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo**, shall be entitled to a tax credit against any tax otherwise due under the provisions of chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of any amount contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's application has been accepted and approved by the department.

The tax credit allowed by this subsection shall be claimed by the taxpayer at the time he files his return and shall be applied against the income tax liability imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law have been applied. That portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years. The aggregate of all tax credits authorized under this section shall not exceed five hundred thousand dollars in any taxable year.

12. Notwithstanding any provision of Missouri law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 11 of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or otherwise transfer earned tax credits:

(1) For no less than seventy-five percent of the par value of such credits; and

(2) In an amount not to exceed one hundred percent of annual earned credits. The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five years. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The director of the department of economic development shall prescribe the method for submitting applications for claiming the tax credit allowed under subsection 11 of this section and shall, if the application is approved, certify to the director of revenue that the taxpayer claiming the credit has satisfied all the requirements specified in this section and is eligible to claim the credit.

620.511. BOARD ESTABLISHED, PURPOSE, MEETINGS, MEMBERS, TERMS, COMPENSATION FOR EXPENSES. — 1. There is hereby established the "Missouri Workforce Investment Board", hereinafter referred to as "the board" in sections 620.511 to 620.513.

2. The purpose of the board is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the state of Missouri. The board shall be the state's advisory board pertaining to workforce preparation policy.

3. The board shall meet the requirements of the federal Workforce Investment Act of 1998, hereinafter referred to as the "WIA", P.L. 105-220, as amended. Should another federal law supplant the WIA, all references in sections 620.511 to 620.513 to the WIA shall apply as well to the new federal law.

4. Composition of the board shall comply with the WIA. Board members appointed by the governor shall be subject to the advice and consent of the senate. Consistent with the requirements of the WIA, the governor shall designate one member of the board to be its chairperson.

5. Except as otherwise provided in subsection 6 of this section, each member of the board shall serve for a term of four years, subject to the pleasure of the governor, and until a successor is duly appointed. In the event of a vacancy on the board, the vacancy shall be filled in the same manner as the original appointment and said replacement shall serve the remainder of the original appointee's unexpired term.

6. Of the members initially appointed to the board, one-fourth shall be appointed for a term of four years, one-fourth shall be appointed for a term of three years, one-fourth

shall be appointed for a term of two years, and one-fourth shall be appointed for a term of one year.

7. Board members shall receive no compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

620.512. BYLAWS TO BE ESTABLISHED — RESTRICTION ON OPERATIONS OF BOARD — RULEMAKING AUTHORITY. — 1. The board shall establish bylaws governing its organization, operation, and procedure consistent with sections 620.511 to 620.513, and consistent with the WIA.

2. The board shall meet at least four times each year at the call of the chairperson.

3. In order to assure objective management and oversight, the board shall not operate programs or provide services directly to eligible participants, but shall exist solely to plan, coordinate, and monitor the provisions of such programs and services. A member of the board may not vote on a matter under consideration by the board that regards the provision of services by the member or by an entity that the member represents or would provide direct financial benefit to the member or the immediate family of the member. A member of the board may not engage in any other activity determined by the governor to constitute a conflict of interest.

4. The composition and the roles and responsibilities of the board membership may be amended to comply with any succeeding federal or state legislative or regulatory requirements governing workforce investment activities, except that the procedure for such change shall be outlined in state rules and regulations and adopted in the bylaws of the board.

5. The department of economic development shall provide professional, technical, and clerical staff for the board.

6. The board may promulgate any rules and regulations necessary to administer the provisions of sections 620.511 to 620.513. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

620.513. DUTIES OF THE BOARD, REPORT — LIMITATION ON AUTHORITY. — 1. The board shall assist the governor with the functions described in section 111(d) of the WIA 29 U.S.C. 2821d and any regulations issued pursuant to the WIA.

2. The board shall submit an annual report of its activities to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than January thirty-first of each year.

3. Nothing in sections 620.511 to 620.513 shall be construed to require or allow the board to assume or supersede the statutory authority granted to, or impose any duties or requirements on, the state coordinating board for higher education, the governing boards of the state's public colleges and universities, the state board of education, or any local educational agencies.

620.638. DEFINITIONS. — As used in sections 620.635 to 620.653, the following terms mean:

(1) "Board", the Missouri seed capital investment board, as established pursuant to section 620.641;

(2) "Committed contributions", the total amount of qualified contributions that are committed to a qualifying fund by contractual agreement;

(3) "Corporation", the Missouri technology corporation as established pursuant to section 348.251, RSMo;

(4) "Department", the department of economic development;

(5) "Director", the director of the department of economic development;

(6) "Follow-up capital", capital provided to a qualified business in which a qualified fund has previously invested seed capital or start-up capital. No more than forty percent of the qualified contributions to a qualified fund may be used for follow-up capital, and no qualified contributions which generate tax credits before the second round of allocations as authorized by section 620.650 shall be used for follow-up capital investments;

(7) "Person", any individual, corporation, partnership, limited liability company or other entity, **including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo;**

(8) "Positive cash flow", total cash receipts from sales or services, but not from investments or loans, exceeding total cash expenditures as calculated on a fiscal year basis;

(9) "Qualified business", any independently owned and operated business which is headquartered and located in Missouri and which is involved in or intends to be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce. Such a business shall maintain its headquarters in Missouri for a period of at least three years from the date of receipt of a qualified investment or be subject to penalties pursuant to section 620.017;

(10) "Qualified contribution", cash contributions to a qualified fund pursuant to the terms of contractual agreements made between the qualified fund and a qualified economic development organization authorized by the board to enter into such contracts;

(11) "Qualified economic development organization", any corporation organized pursuant to the provisions of chapter 355, RSMo, that, as of January 1, 1991, had obtained a contract with the department to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in this state;

(12) "Qualified fund", a fund established by any corporation, partnership, joint venture, unincorporated association, trust or other organization established pursuant to the laws of Missouri and approved by the board or the corporation;

(13) "Qualified investment", any investment of seed capital, start-up capital or follow-up capital in a qualified business that does not cause more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualified business;

(14) "Seed capital", capital provided to a qualified business for research, development and precommercialization activities to prove a concept for a new product, process or service, and for activities related thereto; provided that, seed capital shall not be provided to any business which in a past fiscal year has experienced a positive cash flow;

(15) "Start-up capital", capital provided to a qualified business for use in preproduction product development, service development or initial marketing thereof; provided that, start-up capital shall not be provided to any business which has experienced a positive cash flow in a past fiscal year;

(16) "Uninvested capital", that portion of any qualified contribution to a qualified fund, other than management fees not to exceed three percent per year of committed contributions, qualified investments and other expenses or fees authorized by the board, that is not invested as a qualified investment within ten years of its receipt.

620.1039. TAX CREDIT FOR QUALIFIED RESEARCH EXPENSES, EXCEPTION — CERTIFICATION BY DIRECTOR OF ECONOMIC DEVELOPMENT — TRANSFER OF CREDITS, APPLICATION, RESTRICTIONS AND PROCEDURE — LIMITATIONS ON CREDIT — TAX CREDITS

PROHIBITED, WHEN. — 1. As used in this section, the term "taxpayer" means an individual, a partnership, **or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo,** or a corporation as described in section 143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41.

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development may authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director of the department of economic development, within this state during the taxable year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years.

3. The director of economic development shall prescribe the manner in which the tax credit may be applied for. The tax credit authorized by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application for tax credits authorized by the director pursuant to subsection 2 of this section shall be made no later than the end of the taxpayer's tax period immediately following the tax period for which the credits are being claimed.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996, and ending not later than December 31, 1999. Such taxpayer shall file, by December 31, 2001, an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

5. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

6. The aggregate of all tax credits authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year.

7. For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under this section.

620.1878. DEFINITIONS. — For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

(1) **"Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;**

(2) **"Average wage", the new payroll divided by the number of new jobs;**

[(2)] (3) **"Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the [proposal] approval;**

[(3)] (4) **"County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;**

[(4)] (5) **"Department", the Missouri department of economic development;**

[(5)] (6) **"Director", the director of the department of economic development;**

[(6)] (7) **"Employee", a person employed by a qualified company;**

[(7)] **"Full-time equivalent employees", employees of the qualified company converted to reflect an equivalent of the number of full-time, year-round employees. The method for converting part-time and seasonal employees into an equivalent number of full-time, year-round employees shall be published in a rule promulgated by the department as authorized in section 620.1884.;**

(8) **"Full-time[, year-round] employee", an employee of the qualified company that [works] is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;**

(9) **"High-impact project", a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;**

(10) **"Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision;**

(11) **"NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;**

(12) **"New direct local revenue", the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision;**

(13) "New investment", the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs;

(14) "New job", the number of full-time[, year-round] employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time [equivalent] employees at related facilities below the related facility base employment. **No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;**

(15) "New payroll", [the amount of wages paid by a qualified company to employees in new jobs] **the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll;**

(16) "Notice of intent", a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company's intent to hire new jobs and request benefits under this program;

(17) "Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;

(18) "Program", the Missouri quality jobs program provided in sections 620.1875 to 620.1890;

(19) "Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within one mile of each other such that their purpose and operations are interrelated;

(20) "Project facility base employment", **the greater of the number of full-time employees located at the project facility on the date of the notice of intent or** for the twelve-month period prior to the date of the [proposal] **notice of intent**, the average number of full-time [equivalent] employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, [project facility base employment is] the average number of full-time [equivalent] employees for the number of months the project facility has been in operation prior to the date of the [proposal] **notice of intent**;

(21) **"Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;**

(22) "Project period", the time period that the benefits are provided to a qualified company;

[(22) "Proposal", a document submitted by the department to the qualified company that states the benefits that may be provided by this program. The effective date of such proposal cannot be prior to the commencement of operations. The proposal shall not offer benefits regarding any jobs created prior to its effective date unless the proposal is for a job retention project;]

(23) "Qualified company", a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, **offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent**

of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

- (a) Gambling establishments (NAICS industry group 7132);
- (b) Retail trade establishments (NAICS sectors 44 and 45);
- (c) Food and drinking places (NAICS subsector 722);
- (d) [Utilities regulated by the Missouri public service commission] **Public utilities (NAICS 221 including water and sewer services);**
- (e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state; [or]
- (f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection;
- (g) **Educational services (NAICS sector 61);**
- (h) **Religious organizations (NAICS industry group 8131); or**
- (i) **Public administration (NAICS sector 92).**

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

- (24) "Related company" means:
 - (a) A corporation, partnership, trust, or association controlled by the qualified company;
 - (b) An individual, corporation, partnership, trust, or association in control of the qualified company; or
 - (c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, ["]control of a corporation["] shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, ["]control of a partnership or association["] shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, ["]control of a trust["] shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;
- (25) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;
- (26) "Related facility base employment", **the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or** for the twelve-month period prior to the date of the [proposal] **notice of intent**, the average number of full-time [equivalent] employees located at all related facilities of the qualified company or a related company located in this state;
- (27) **"Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;**
- (28) "Rural area", a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census;

[(28)] **(29)** "Small and expanding business project", a qualified company that within two years of the date of the [proposal] **approval** creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility;

[(29)] **(30)** "Tax credits", tax credits issued by the department to offset the state income taxes imposed by [chapter] **chapters 143 and 148**, RSMo, or which may be sold or refunded as provided for in this program;

[(30)] **(31)** "Technology business project", a qualified company that within two years of the date of the [proposal] **approval** creates a minimum of ten new jobs [with at least seventy-five percent of the new jobs directly] involved in the operations of a technology company as determined by a regulation promulgated by the department under the provisions of section 620.1884 [and] **or** classified by NAICS codes; **or which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices;**

[(31)] **(32)** "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo. **For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.**

620.1881. PROJECT NOTICE OF INTENT, DEPARTMENT TO RESPOND WITH A PROPOSAL OR A REJECTION — BENEFITS AVAILABLE — EFFECT ON WITHHOLDING TAX — PROJECTS ELIGIBLE FOR BENEFITS — ANNUAL REPORT — CAP ON TAX CREDITS — ALLOCATION OF TAX CREDITS. — 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either [a proposal] **an approval** or a rejection of the notice of intent. **The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government.** Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed [a proposal] **an approval** for the purposes of this section. A qualified company who is provided [a proposal] **an approval** for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original [proposal] **approval** for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new [proposal] **approval**.

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not [also] **simultaneously** receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, [for the same new jobs] at the **same** project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job

retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this subdivision. **The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.**

3. The types of projects and the amount of benefits to be provided are:

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax **as calculated under subdivision (32) of section 620.1878** from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds the county average wage or for a period of five years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred twenty percent of the county average wage;

(2) Technology business projects: in exchange for the consideration provided by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to a maximum of five percent of new payroll for a period of five years from the date the required number of jobs were created from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average wage of the new payroll equals or exceeds the county average wage. An additional one-half percent of new payroll may be added to the five percent maximum if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located, plus an additional one-half percent of new payroll may be added if the average wage of the new payroll in any year exceeds one hundred forty percent of the average wage in the county in which the project facility is located. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is five hundred thousand dollars;

(3) High impact projects: in exchange for the consideration provided by the new tax revenues and other economic [stimulus] **stimuli** that will be generated by the new jobs created by the program, a qualified company may retain an amount from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a

period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage of the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a project or combination of projects may be increased up to one million dollars **if the number of new jobs will exceed five hundred and** if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the project;

(4) Job retention projects: a qualified company may receive a tax credit for the retention of jobs in this state, provided the qualified company and the project meets all of the following conditions:

(a) For each of the twenty-four months preceding the year in which application for the program is made the qualified company must have maintained at least one thousand full-time[, year-round] employees at the employer's site in the state at which the jobs are based, and the average wage of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time[, year-round] employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time[, year-round] jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, 2007;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by flood water rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year- round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time.

The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by

the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time[, year-round] employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in an annual report is below the minimum for high impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

5. The maximum calendar year annual tax credits issued for the entire program shall not exceed [twelve] **forty** million dollars. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program.

6. The department shall allocate the annual tax credits based on the date of the [proposal] **approval**, reserving such tax credits based on the department's best estimate of new jobs and new payroll of the project, and the other factors in the determination of benefits of this program. However, the annual issuance of tax credits is subject to the annual verification of the actual new payroll. The allocation of tax credits for the period assigned to a project shall expire if, within two years from the date of commencement of operations, or [proposal] **approval** if applicable, the minimum thresholds have not been achieved. The qualified company may retain authorized amounts from the withholding tax under this section once the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the minimum new jobs thresholds. In the event the qualified company does not meet the minimum new job threshold, the qualified company may submit a new notice of intent or the department may provide a new [proposal] **approval** for a new project of the qualified company at the project facility or other facilities.

7. For a qualified company with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed within one year of the close of the taxable year for which they were issued, **except as provided under subdivision (4) of subsection 3 of this section.**

9. Tax credits authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department.

10. **Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that at issuance credits shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.**

11. **Except as provided under subdivision (4) of subsection 3 of this section,** the director of revenue shall issue a refund to the qualified company to the extent that the amount of credits allowed in this section exceeds the amount of the qualified company's income tax.

[11.] 12. An employee of a qualified company will receive full credit for the amount of tax withheld as provided in section [143.221] **143.211**, RSMo.

[12.] 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared severable.

[99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED. — 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably

necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining

to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

3. The commission, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.]

[578.395. TICKET SCALPING , PENALTY. — 1. Any person, firm, or corporation who resells or offers to resell any ticket for admission, or any other evidence of the right of entry, to any public sporting event for a price in excess of the price printed on the ticket is guilty of the offense of ticket scalping. For purposes of this section, if a seller requires, as a precondition of the resale of a ticket, the purchase or rental of other goods or services at a price in excess of the fair market value of such goods or services, the excess amount shall be deemed to be part of the purchase price of the ticket.

2. Nothing in this section shall prohibit nor shall be deemed to prohibit a seller, with consent of the sponsor of such sporting event, from collecting a reasonable service charge from a ticket purchaser in return for services actually rendered.

3. Any person violating this section upon conviction shall be guilty of a misdemeanor and, except as provided in subsection 4 of this section, shall be punished as follows:

(1) For the first offense, by a fine of not less than fifty dollars nor more than three hundred dollars or by imprisonment in the county jail for a term of not less than fifteen days;

(2) For the second offense, by a fine of not less than three hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for a term of not less than sixty days nor more than six months;

(3) For the third and each subsequent offense, by a fine of not less than five hundred dollars nor more than one thousand dollars or imprisonment in the county jail for a term of not less than six months nor more than one year.

4. In lieu of any fine imposed under subsection 3 of this section, the court may invoke the provisions of subsection 2 of section 560.016, RSMo, against any person convicted of a second or subsequent offense of this section.]

[620.521. LAW, HOW CITED. — Sections 620.521 to 620.530 shall be known and may be cited as the "Missouri Training and Employment Council Act".]

[620.523. MISSOURI TRAINING AND EMPLOYMENT COUNCIL ESTABLISHED, PURPOSE — MEMBERS, APPOINTMENT, QUALIFICATIONS — RULES ESTABLISHED IN BYLAWS — TERMS, EXPENSES. — 1. There is hereby established the "Missouri Training and Employment Council".

2. The Missouri training and employment council shall study and make recommendations regarding the improvement of the state's job training service delivery network. Such recommendations will consider improved federal and state resource use and expanded coordination of state job training and employment activities with other related activities. Using the results of interdepartmental collaboration at early stages of policy formation, the council shall propose a statewide training and employment policy and a periodically updated plan of services for achieving Missouri's objective of full employment. The council shall serve as a forum for public and private sector representation to encourage cooperative uses of training and employment funding, facilities and staff resources for a more comprehensive and coordinated statewide system.

3. The Missouri training and employment council shall consist of thirty members appointed by the governor with the advice and consent of the senate. The governor shall designate one nongovernmental member to be chairman. The council shall be composed as follows:

(1) Thirty percent of the membership shall be representatives of business, industry and agriculture, including individuals who are representatives of business, industry, and agriculture on private industry councils, job service employer committees or local education advisory committees within the state;

(2) Thirty percent of the membership shall be:

(a) Members of the general assembly and state agencies and organizations. One representative each from the department of economic development, the department of elementary and secondary education, the department of labor and industrial relations and the department of social services shall be appointed;

(b) Representatives of the units or consortia of units of general local government which shall be nominated by the chief elected officials of the units or consortia of units of local government and the representatives of local educational agencies who shall be nominated by local educational agencies. One community college president or chancellor, one representative of the state council on vocational education and one director of an area vocational school shall be appointed to the council. To the extent feasible, such appointees shall have knowledge of or experience with economic development, job training, education or related areas;

(3) Thirty percent of the membership shall be representatives of organized labor and representatives of community-based organizations in the state;

(4) Ten percent of the membership shall be representatives of the general public.

The composition and the roles and responsibilities of the Missouri training and employment council membership may be amended to comply with any succeeding federal or state legislative or regulatory requirements governing training and employment programs, except that the procedure for such change shall be outlined in state rules and regulations and adopted in the bylaws of the council.

4. Each member of the council shall serve for a term of four years and until a successor is duly appointed; except that, of the members first appointed, six members shall serve for a term of four years, eight members shall serve for a term of three years, eight members shall serve for a term of two years and eight members shall serve for a term of one year. Each member shall continue to serve until a successor is duly appointed. The council shall meet at least four times each year at the call of the chairman.

5. The members of the council shall receive no compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their official duties.]

[620.527. POWERS AND DUTIES OF COUNCIL. — 1. The Missouri training and employment council shall:

(1) Review studies of occupational trends, employment supply and demand, industry growth, job training program participation, labor force literacy and early warning signals that industries are beginning to decline or are in danger of closing;

(2) Report to the governor and to the general assembly regarding statewide training and employment policies which have been developed in concert with interagency assistance from the department of economic development, the department of elementary and secondary education, the department of labor and industrial relations, the department of social services and other agencies delivering training and employment services;

(3) Prepare and submit to appropriate state and local agencies a statewide plan for full-employment services including such activities as labor exchange, job training or retraining, job development, job placement services and labor force literacy;

(4) Work through various state agencies delivering training and employment services to review interagency coordination and program effectiveness;

(5) Review and report to the governor innovative proposals for training and employment programs; and

(6) Encourage the participation of government, business and industry, and unions or other labor organizations, for providing assistance to dislocated workers, in communities where plant closures occur.

2. The roles, responsibilities and duties of the Missouri job training coordinating council established by Missouri executive order 88-8 are hereby assigned to the Missouri training and employment council. The Missouri training and employment council shall perform all council functions required by the federal Job Training Partnership Act, as amended, as well as the expanded requirements defined by sections 620.521 to 620.530.]

[620.529. STATEWIDE TRAINING AND EMPLOYMENT PLAN TO BE PREPARED FOR STATE AND LOCAL AGENCIES — CONTENT OF PLAN — REVIEW AND UPDATE REQUIRED. — 1. The Missouri training and employment council shall prepare and recommend a statewide training and employment plan for consideration by appropriate state and local agencies by 1993. The plan shall be reviewed annually and updated periodically and shall propose implementation timetables, measurable objectives and specific courses of action. The plan shall describe possible cooperative uses of training and employment funding, facilities and staff resources whenever feasible and shall focus on the development of a more coordinated training and employment delivery system.

2. The plan shall include provisions to accomplish the following objectives by the administering agencies:

- (1) Provide a streamlined intake and assessment process for persons seeking training and employment assistance;
- (2) Target appropriate skill areas for training so that persons are trained for positions expected to exist in the labor market;
- (3) Allow workers with obsolete or inadequate skills to have their skills upgraded while retaining employment;
- (4) Retrain workers displaced by high technology industry and plant closings to reenter the Missouri workforce;
- (5) Involve business and industry in the planning, operation and evaluation of training programs;
- (6) Encourage and assist local educational agencies, vocational technical schools and post-secondary institutions to coordinate their curricula and course selections with the changing needs of business and industry;
- (7) Develop programs to improve the use of apprenticeship as a method of instruction in Missouri.

3. The objectives listed in subsection 2 of this section shall be the foundation for interagency efforts to coordinate services and offer programs which maximize resources to meet Missouri's workforce needs while recognizing various agency roles and responsibilities.]

[620.530. DIVISION OF JOB DEVELOPMENT TRAINING TO PROVIDE PROFESSIONAL AND CLERICAL STAFF — DIVISION TO DEVELOP RULES TO CARRY OUT PLANS AND POLICIES. —

1. The division of job development and training shall provide professional, technical and clerical staff support and resources to the Missouri training and employment council; administer training programs authorized under the federal Job Training Partnership Act; administer programs authorized under sections 620.470 to 620.481; and administer such other federal or state job development and training programs as are assigned to the division.

2. The division shall promulgate rules and regulations necessary to carry out its responsibility to the Missouri training and employment council and to develop the plans and policies adopted by the council. No rule or portion of a rule promulgated under the authority of sections 620.470 to 620.570 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[620.537. TARGETED INDUSTRIES STUDY, PURPOSE, DISTRIBUTION — STUDY OF CLUSTERED JOB TRAINING. —

1. The department of economic development shall commission a new targeted industries study to identify those general areas of the Missouri economy where growth and increased employment is likely to occur in the next decade, and to ascertain necessary, associated work force skills and requirements. The completed study shall be distributed to all Missouri state agencies which provide job training services in order to promote collaboration in the development of employment projections and in the delivery of training services, and to any local economic development agency requesting a copy of such study.

2. The Missouri training and employment council, in conjunction with the state's private industry councils, the state's community colleges, the state's area vocational technical schools, community action agencies, as defined in section 660.370, RSMo, the department of economic development, the department of elementary and secondary education, the department of labor and industrial relations, the department of social services, and the Missouri state council on vocational education shall initiate a study regarding the value of a clustered or regional focus on job training, including the establishment of customized, technical training centers and utilization of portable equipment. Emphasis will be placed on the determination of broad occupational training needs.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary for the creation of family-supporting jobs for the citizens of Missouri and creating incentives for

investment in the state, the repeal and reenactment of sections 620.1878 and 620.1881 and the enactment of section 135.680 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 620.1878 and 620.1881 and the enactment of section 135.680 of this act shall be in full force and effect upon its passage and approval.

Approved September 4, 2007

HB 2 [HB 2]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the Highways and Transportation Commission to modify bonding requirements for projects designated as design-build-finance-maintain projects which exceed 25 years

AN ACT to repeal section 227.107, RSMo, and to enact in lieu thereof one new section relating to state highways and transportation commission design-build state highway project bond requirements, with an emergency clause.

SECTION

- A. Enacting clause.
- 227.107. Design-build project contracts permitted, limitations, definitions — written procedures required — submission of detailed disadvantaged business enterprise participation plan — bid process — rulemaking authority — status report to general assembly — cost estimates to be published.
- B. Emergency Clause

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 227.107, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.107, to read as follows:

227.107. DESIGN-BUILD PROJECT CONTRACTS PERMITTED, LIMITATIONS, DEFINITIONS — WRITTEN PROCEDURES REQUIRED — SUBMISSION OF DETAILED DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN — BID PROCESS — RULEMAKING AUTHORITY — STATUS REPORT TO GENERAL ASSEMBLY — COST ESTIMATES TO BE PUBLISHED. — 1. Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into highway design-build project contracts. The authority granted to the state highways and transportation commission by this section shall be limited to a total of three design-build project contracts. Two design-build projects authorized by this section shall be selected by the highways and transportation commission from 1992 fifteen year plan projects. Authority to enter into design-build projects granted by this section shall expire on July 1, 2012, unless extended by statute or upon completion of three projects, whichever is first.

2. For the purpose of this section a "design-builder" is defined as an individual, corporation, partnership, joint venture or other entity, including combinations of such entities making a proposal to perform or performing a design-build highway project contract.

3. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction

or improvement of a state highway project in a single contract with a design-builder capable of providing the necessary materials and services.

4. For the purpose of this section, "highway project" is defined as the design, construction, reconstruction or improvement of highways or bridges under contract with the state highways and transportation commission, which is funded by state, federal or local funds or any combination of such funds.

5. In using a design-build highway project contract, the commission shall establish a written procedure by rule for prequalifying design-builders before such design-builders will be allowed to make a proposal on the project.

6. In any design-build highway project contract, whether involving state or federal funds, the commission shall require that each person submitting a request for qualifications provide a detailed disadvantaged business enterprise participation plan. The plan shall provide information describing the experience of the person in meeting disadvantaged business enterprise participation goals, how the person will meet the department of transportation's disadvantaged business enterprise participation goal and such other qualifications that the commission considers to be in the best interest of the state.

7. The commission is authorized to issue a request for proposals to a maximum of five design-builders prequalified in accordance with subsection 5 of this section.

8. The commission may require approval of any person performing subcontract work on the design-build highway project.

9. The bid bond and performance bond requirements of section 227.100 and the payment bond requirements of section 107.170, RSMo, shall apply to the design-build highway project.

10. **The requirements of subsection 9 of this section may be modified by the commission for any design-build highway project contract which is designated by the commission as a "design-build-finance-maintain" project, and for which the contract with the design-builder exceeds twenty-five years. For such projects, the commission shall require the design-builder to provide, or cause to be provided by the construction entity or entities providing construction services under contract to the design-builder directly, such bonds, or such other security, in such terms, durations, and amounts as the commission may determine to be adequate for its protection and provided by a surety, sureties, or financial institution or institutions satisfactory to the commission, including but not limited to:**

(1) A bid or proposal bond, or other security authorized under subsection 2 of section 227.100, in an amount of not less than five million dollars;

(2) A performance bond or bonds for the construction period specified in the design-build highway project contract in an aggregate amount of not less than two hundred million dollars or twenty-five percent of a reasonable estimate of the cost of construction work, whichever amount is lower, except the commission may allow other security in lieu of or in addition to any bond or bonds, including but not limited to letters of credit or other negotiable instruments, such other or additional security to be on such terms, for such durations, and in such amounts as the commission may determine to be adequate for the protection of the commission, and to be provided by sureties or financial institutions satisfactory to the commission; and

(3) A payment bond or bonds that shall be enforceable under section 522.300, RSMo, for the protection of persons supplying labor and material in carrying out the construction work provided for in the design-build highway project contract. The aggregate amount of the payment bond or bonds shall equal a reasonable estimate of the total amount payable for the cost of construction work under the terms of the design-build highway project contract unless the commission determines in writing supported by specific findings that a payment bond or bonds in such amount is impractical, in which case the commission shall establish the amount of the payment bond or bonds; except that the amount of the payment bond or bonds shall not be less than the aggregate amount of the

performance bond or bonds and the additional security to such performance bond or bonds, or in the amount of the other security used in lieu of the performance bond or bonds.

11. The commission is authorized to prescribe the form of the contracts for the work.

[11.] **12.** The commission is empowered to make all final decisions concerning the performance of the work under the design-build highway project contract, including claims for additional time and compensation.

[12.] **13.** The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the procurement of architectural, engineering or land surveying services for the design-build highway project, except that any person providing architectural, engineering or land surveying services for the design-builder on the design-build highway project must be licensed in Missouri to provide such services.

[13.] **14.** The commission shall pay a reasonable stipend to prequalified responsive design-builders who submit a proposal, but are not awarded the design-build highway project.

[14.] **15.** The commission shall comply with the provisions of any act of congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

[15.] **16.** The commission shall promulgate administrative rules to implement this section or to secure federal funds. Such rules shall be published for comment in the Missouri Register and shall include prequalification criteria, the make-up of the prequalification review team, specifications for the design criteria package, the method of advertising, receiving and evaluating proposals from design-builders, the criteria for awarding the design-build highway project based on the design criteria package and a separate proposal stating the cost of construction, and other methods, procedures and criteria necessary to administer this section.

[16.] **17.** The commission shall make a status report to the members of the general assembly and the governor following the award of the design-build project, as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with the provisions of section 21.795, RSMo. The annual report prior to advertisement of the design-build highway project contracts shall state the goals of the project in reducing costs and/or the time of completion for the project in comparison to the design-bid-build method of construction and objective measurements to be utilized in determining achievement of such goals. Subsequent annual reports shall include: the time estimated for design and construction of different phases or segments of the project and the actual time required to complete such work during the period; the amount of each progress payment to the design-builder during the period and the percentage and a description of the portion of the project completed regarding such payment; the number and a description of design change orders issued during the period and the cost of each such change order; upon substantial and final completion, the total cost of the design-build highway project with a breakdown of costs for design and construction; and such other measurements as specified by rule. The annual report immediately after final completion of the project shall state an assessment of the advantages and disadvantages of the design-build method of contracting for highway and bridge projects in comparison to the design-bid-build method of contracting and an assessment of whether the goals of the project in reducing costs and/or the time of completion of the project were met.

[17.] **18.** The commission shall give public notice of a request for qualifications in at least two public newspapers that are distributed wholly or in part in this state and at least one construction industry trade publication that is distributed nationally.

[18.] **19.** The commission shall publish its cost estimates of the design-build highway project award and the project completion date along with its public notice of a request for qualifications of the design-build project.

[19.] **20.** If the commission fails to receive at least two responsive submissions from design-builders considered qualified, submissions shall not be opened and it shall readvertise the project.

SECTION B. EMERGENCY CLAUSE.— Because immediate action is necessary to ensure public safety in the state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved September 4, 2007

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**LAWS PASSED
DURING THE
NINETY-FOURTH
GENERAL ASSEMBLY,
SECOND REGULAR SESSION**

Wednesday, January 9, 2008
through
Friday, May 16, 2008

HB 2001 [HB 2001]

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds, and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund, and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 1.010.— To the Board of Fund Commissioners

For annual fees, arbitrage rebate, refunding, defeasance, and related expenses

From General Revenue Fund. \$20,002E

SECTION 1.015.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Fourth State
Building Bond and Interest Fund for currently outstanding
general obligations

From General Revenue Fund. \$18,806,732

SECTION 1.020.— To the Board of Fund Commissioners

For payment of interest and sinking fund requirements on fourth state
building bonds currently outstanding as provided by law

From Fourth State Building Bond and Interest Fund. \$17,077,982

SECTION 1.025.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Water Pollution
Control Bond and Interest Fund for currently outstanding general
obligations

From General Revenue Fund. \$28,240,051E

There is transferred out of the State Treasury, chargeable to the
Water and Wastewater Loan Revolving Fund pursuant to Title 33,
Chapter 26, Subchapter VI, Section 1383, U.S. Code, to the Water
Pollution Control Bond and Interest Fund for currently outstanding
general obligations

From Water and Wastewater Loan Revolving Fund. 8,332,977E

Total. \$36,573,028

SECTION 1.030.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on water
 pollution control bonds currently outstanding as provided by law
 From Water Pollution Control Bond and Interest Fund.. . . . \$28,938,014

SECTION 1.035.— There is transferred out of the State Treasury,
 chargeable to the General Revenue Fund, to the Stormwater
 Control Bond and Interest Fund for currently outstanding general
 obligations
 From General Revenue Fund.. . . . \$3,201,221

SECTION 1.040.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on stormwater
 control bonds currently outstanding as provided by law
 From Stormwater Control Bond and Interest Fund.. . . . \$2,578,658

SECTION 1.045.— There is transferred out of the State Treasury,
 chargeable to the General Revenue Fund, to the Third State
 Building Bond Interest and Sinking Fund for currently
 outstanding general obligations
 From General Revenue Fund.. . . . \$39,631,188

SECTION 1.050.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on third state
 building bonds currently outstanding as provided by law
 From Third State Building Bond Interest and Sinking Fund. \$46,904,688

BILL TOTALS

General Revenue Fund.	\$89,899,194
Other Funds.. . . .	8,332,977
Total.	<u>\$98,232,171</u>

Approved June 27, 2008

HB 2002 [CCS SCS HCS HB 2002]

**APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY
 AND SECONDARY EDUCATION.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department,

division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 2.005.— To the Department of Elementary and Secondary Education

For the Division of General Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	\$2,417,939
From Federal Funds	<u>1,692,639</u>
Total (Not to exceed 68.50 F.T.E.).	\$4,110,578

SECTION 2.010.— To the Department of Elementary and Secondary Education

For construction and site acquisition costs to accommodate any reasonably anticipated net enrollment increase caused by any reduction or elimination of the voluntary transfer plan as approved by the United States Court of the Eastern District of Missouri pursuant to Senate Bill 781 (1998)

From General Revenue Fund.	\$10,000,000
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SECTION 2.015.— To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School

Foundation Program as provided in Chapter 163, RSMo, as follows:

At least \$2,956,219,738 for the foundation formula provided that notwithstanding the provisions of Section 160.530, RSMo, no more than \$15,000,000 be spent solely for the critical needs and the Success Leads to Success grant program pursuant to Section 160.530, RSMo; and no more than \$167,797,713 for Transportation; \$98,811,209 for Early Childhood Special Education; \$37,467,000 for Career Ladder; \$52,930,428 for Vocational Education; and \$34,304,651 for Early Childhood Development. In addition, the Commissioner of Education shall submit a quarterly report reflecting expenditures made pursuant to 160.530 RSMo to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee

From Outstanding Schools Trust Fund.	\$643,615,085
From State School Moneys Fund.	2,283,650,788
From Lottery Proceeds Fund	108,979,552
From Classroom Trust Fund.	311,285,314

For distribution to a metropolitan school district for the purpose of paying the costs of intra-district student transportation, these funds are subject to a sixty percent (60%) local match from the metropolitan school district

From General Revenue Fund.	\$750,000
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For the Small Schools Program

From State School Moneys Fund.	15,000,000
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For the Virtual Schools Program provided that no more than two percent (2%) of the appropriation shall be used for general

administrative support or curriculum development directly by the Department of Elementary and Secondary Education, and multiple content providers for each grade level are provided pursuant to the intent of 161.670.5, RSMo	
From Lottery Proceeds Fund	5,800,000
For State Board of Education operated school programs Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	43,356,312
From Federal Funds	3,992,889
Expense and Equipment	
From Bingo Proceeds for Education Fund.	1,707,167
Total (Not to exceed 838.85 F.T.E.).	<u>\$3,418,137,107</u>

SECTION 2.020. — To the Department of Elementary and Secondary Education For early grade literacy programs offered at Southeast Missouri State University	
From General Revenue Fund.	\$105,000
From Lottery Proceeds Fund	145,000
From Outstanding Schools Trust Fund.	<u>250,000</u>
Total.	<u>\$500,000</u>

SECTION 2.025. — To the Department of Elementary and Secondary Education For the School Food Services Program to reimburse schools for breakfasts and lunches	
From General Revenue Fund.	\$3,412,151
From Federal Funds	<u>204,345,627E</u>
Total.	<u>\$207,757,778</u>

SECTION 2.030. — To the Department of Elementary and Secondary Education For distributions to the public elementary and secondary schools in this state, pursuant to Chapters 144, 163, and 164, RSMo, pertaining to the School District Trust Fund	
From School District Trust Fund.	\$803,700,000E

SECTION 2.035. — To the Department of Elementary and Secondary Education For costs associated with school district bonds	
From School District Bond Fund.	\$392,000

Section 2.040. — To the Department of Elementary and Secondary Education For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds	
From Federal and Other Funds.	\$15,000,000E

SECTION 2.045.— To the Department of Elementary and Secondary Education

For the Division of School Improvement

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$1,684,793
From Federal Funds 7,527,640

For the Division of Career Education

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. 1,478,521
From Federal Funds 3,019,308

For the Division of Special Education

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. 248,399
From Federal Funds 2,640,224

For the Division of Teacher Quality and Urban Education

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. 1,166,187
From Federal Funds 53,898
From Excellence in Education Fund. 2,955,082
Total (Not to exceed 262.16 F.T.E.). \$20,774,052

SECTION 2.050.— To the Department of Elementary and Secondary Education

For the Technology Grants Program and for planning and implementing
computer network infrastructure for public elementary and
secondary schools, including computer access to the Department
of Elementary and Secondary Education and to improve the use of
classroom technology

From Federal Funds. \$5,000,000

SECTION 2.055.— To the Department of Elementary and Secondary Education

For improving basic programs operated by local education agencies
under Title I of the No Child Left Behind Act

From Federal Funds. \$200,000,000E

SECTION 2.060.— To the Department of Elementary and Secondary Education

For the Reading First Grant Program under Title I of the No Child
Left Behind Act

From Federal Funds. \$27,908,815E

SECTION 2.065.— To the Department of Elementary and Secondary Education

For innovative educational program strategies under Title V of the No
Child Left Behind Act

From Federal Funds. \$3,500,000E

SECTION 2.070.— To the Department of Elementary and Secondary Education
 For programs for the gifted from interest earnings accruing in the
 Stephen Morgan Ferman Memorial for Education of the Gifted
 From State School Moneys Fund. \$10,000E

SECTION 2.075.— To the Department of Elementary and Secondary Education
 For the Missouri Scholars and Fine Arts Academies
 From General Revenue Fund. \$718,306

SECTION 2.080.— To the Department of Elementary and Secondary Education
 For reimbursements to school districts for the Early Childhood
 Program, Hard-to-Reach Incentives, and Parent Education in
 conjunction with the Early Childhood Education and Screening
 Program
 From General Revenue Fund. \$73,200
 From Federal Funds 824,000
 From State School Moneys Fund. 125,000

For grants to higher education institutions or area vocational
 technical schools for the Child Development Associate
 Certificate Program in collaboration with the Coordinating Board
 for Higher Education
 From Federal Funds 400,000

For grants under the Early Childhood Development, Education and Care
 Program, including up to \$25,000 in expense and equipment, for
 program administration
 From Early Childhood Development, Education and Care Fund. 14,757,600
 Total. \$16,179,800

SECTION 2.085.— To the Department of Elementary and Secondary Education
 For the Head Start Collaboration Program
 From Federal Funds. \$300,000E

SECTION 2.090.— To the Department of Elementary and Secondary Education
 For the A+ Schools Program
 From General Revenue Fund. \$3,477,076
 From Lottery Proceeds Fund. 21,859,448
 Total. \$25,336,524

SECTION 2.095.— To the Department of Elementary and Secondary Education
 For the Performance Based Assessment Program
 From General Revenue Fund. \$368,867
 From Federal Funds 10,184,722
 From Outstanding Schools Trust Fund. 128,125
 From Lottery Proceeds Fund. 4,568,630
 Total. \$15,250,344

SECTION 2.100.— To the Department of Elementary and Secondary Education
 For courses, exams, and other expenses that lead to high school
 students receiving college credit and Advanced Placement
 examination fees for low-income families and for science and
 mathematics exams

From Lottery Proceeds Fund.	\$250,000
From Federal Funds.	<u>105,000</u>
Total.	\$355,000

SECTION 2.105.— To the Department of Elementary and Secondary Education
For the Instructional Improvement Grants Program pursuant to Title II
Improving Teacher Quality

From Federal Funds. \$59,348,890E

SECTION 2.110.— To the Department of Elementary and Secondary Education
For the Safe and Drug Free Schools Grants Program pursuant to
Title IV of the No Child Left Behind Act

From Federal Funds. \$7,600,000E

SECTION 2.115.— To the Department of Elementary and Secondary Education
For a safe schools initiative to include, but not be limited to, safe
school grants, alternative education program grants, equipment,
anti-violence curriculum development, and conflict resolution

From General Revenue Fund. \$3,122,128

SECTION 2.120.— To the Department of Elementary and Secondary Education
For the Public Charter Schools Program

From Lottery Proceeds Fund.	\$62,500
From Federal and Other Funds	<u>2,432,000</u>
Total.	\$2,494,500

SECTION 2.125.— To the Department of Elementary and Secondary Education
For teacher education student scholarships at four-year colleges or
universities in Missouri pursuant to the Excellence in Education Act

From General Revenue Fund. \$249,000

For minority student scholarships pursuant to Section 161.415, RSMo

From Lottery Proceeds Fund 200,000

For teacher education student scholarships pursuant to Section 173.232, RSMo

From General Revenue Fund.	<u>174,970</u>
Total.	\$623,970

SECTION 2.130.— To the Department of Elementary and Secondary Education
For grants to rural and low-income schools

From Federal Funds. \$3,600,000E

SECTION 2.135.— To the Department of Elementary and Secondary Education
For language acquisition pursuant to Title III of the No Child Left Behind Act

From Federal Funds. \$5,200,000E

SECTION 2.140.— To the Department of Elementary and Secondary Education
For the Refugee Children School Impact Grants Program

From Federal Funds. \$800,000

SECTION 2.145.— To the Department of Elementary and Secondary Education
For character education initiatives

From Lottery Proceeds Fund. \$860,571

SECTION 2.150.— To the Department of Elementary and Secondary Education
For the Schools with Distinction Program
From Federal Funds. \$13,000E

SECTION 2.155.— To the Department of Elementary and Secondary Education
For the Wallace Leadership Grants Program
From Federal Funds. \$1,000,000

SECTION 2.160.— To the Department of Elementary and Secondary Education
For the Enhancing Missouri's Instructional Networked Teaching Strategies
(EMINTS) Program
From General Revenue Fund. \$1,000,000

SECTION 2.165.— To the Department of Elementary and Secondary Education
For the Division of Vocational Rehabilitation
Personal Service. \$26,342,351
Expense and Equipment. 3,574,089
From Federal Funds (Not to exceed 643.70 F.T.E.). \$29,916,440

SECTION 2.170.— To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program
From General Revenue Fund. \$12,417,794
From Federal Funds 37,707,980
From Payments by the Department of Mental Health 1,000,000
From Lottery Proceeds Fund. 1,400,000
Total. \$52,525,774

SECTION 2.175.— To the Department of Elementary and Secondary Education
For the Disability Determination Program
From Federal Funds. \$14,000,000

SECTION 2.180.— To the Department of Elementary and Secondary Education
For Independent Living Centers
From General Revenue Fund. \$3,416,486
From Federal Funds 1,292,546
From Independent Living Center Fund. 390,556
Total. \$5,099,588

SECTION 2.185.— To the Department of Elementary and Secondary Education
For distributions to providers of vocational education programs
From Federal Funds. \$26,000,000

SECTION 2.190.— To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act
From Federal Funds. \$8,000,000E

SECTION 2.195.— To the Department of Elementary and Secondary Education
For distributions to educational institutions for the Adult Basic
Education Program
From General Revenue Fund. \$4,530,849
From Federal Funds 10,000,000
From Outstanding Schools Trust Fund. 824,480
Total. \$15,355,329

SECTION 2.200.— To the Department of Elementary and Secondary Education
For the School Age Child Care Program
From General Revenue Fund. \$75,000
From Federal Funds 17,408,383
Total. \$17,483,383

SECTION 2.205.— To the Department of Elementary and Secondary Education
For the Troops to Teachers Program
From Federal Funds. \$153,610

SECTION 2.210.— To the Department of Elementary and Secondary Education
For the Special Education Program
From Federal Funds. \$230,315,211E

SECTION 2.215.— To the Department of Elementary and Secondary Education
For special education excess costs
From General Revenue Fund. \$1,421,563
From Lottery Proceeds Fund 19,590,000
Total. \$21,011,563

SECTION 2.220.— To the Department of Elementary and Secondary Education
For the First Steps Program
From General Revenue Fund. \$15,590,703
From Federal Funds 7,761,583E
From Early Childhood Development, Education and Care Fund. 578,644
From Part C Early Intervention Fund.. . . . 5,295,254E
Total. \$29,226,184

SECTION 2.225.— To the Department of Elementary and Secondary Education
For payments to school districts for children in residential
placements through the Department of Mental Health or the
Department of Social Services pursuant to Section 167.126, RSMo
From General Revenue Fund. \$2,330,731
From Lottery Proceeds Fund. 7,768,606
Total. \$10,099,337

SECTION 2.230.— To the Department of Elementary and Secondary Education
For the Sheltered Workshops Program
From General Revenue Fund. \$21,198,354

SECTION 2.235.— To the Department of Elementary and Secondary Education
For payments to readers for blind or visually disabled students in
elementary and secondary schools
From State School Moneys Fund. \$25,000

Section 2.240.— To the Department of Elementary and Secondary Education
For a task force on blind student academic and vocational performance
From General Revenue Fund. \$237,950

SECTION 2.245.— To the Department of Elementary and Secondary Education
For the Missouri School for the Deaf
From School for the Deaf Trust Fund. \$25,000E

SECTION 2.250.— To the Department of Elementary and Secondary Education
For the Missouri School for the Blind
From School for the Blind Trust Fund. \$1,500,000E

SECTION 2.255.— To the Department of Elementary and Secondary Education
For the Missouri Special Olympics Program
From General Revenue Fund. \$100,000

SECTION 2.260.— To the Department of Elementary and Secondary Education
For the State Schools for Severely Handicapped Children
From Handicapped Children's Trust Fund. \$30,000E

SECTION 2.265.— To the Department of Elementary and Secondary Education
For the Missouri Commission for the Deaf and Hard of Hearing
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment
From General Revenue Fund. \$276,108
From Missouri Commission for the Deaf and Hard of Hearing Fund 52,100

Expense and Equipment
From Certification of Interpreters Fund. 117,000
Total (Not to exceed 7.00 F.T.E.). \$445,208

SECTION 2.270.— To the Department of Elementary and Secondary Education
For the Missouri Assistive Technology Council
Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment
From Federal Funds 815,096
From Deaf Relay Services and Equipment Distribution Fund 1,870,649
From Assistive Technology Loan Revolving Fund. 349,430

Expense and Equipment
From Missouri Assistive Technology Trust Fund. 750,000
Total (Not to exceed 10.00 F.T.E.). \$3,785,175

SECTION 2.275.— To the Department of Elementary and Secondary Education
For the Children's Services Commission
From Children's Service Commission Fund. \$10,000

SECTION 2.280.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the State School Moneys Fund
From General Revenue Fund. \$2,121,396,888

SECTION 2.285.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to
the General Revenue Fund-County Foreign Tax Distribution, to the
State School Moneys Fund
From General Revenue Fund. \$100,800,000E

SECTION 2.290.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to
the Fair Share Fund, to the State School Moneys Fund
From Fair Share Fund. \$22,800,000E

SECTION 2.295.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Outstanding Schools Trust Fund
From General Revenue Fund. \$644,817,690E

SECTION 2.300.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
Gaming Proceeds for Education Fund, to the Classroom Trust Fund
From Gaming Proceeds for Education Fund. \$299,625,742E

SECTION 2.305.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to
the Lottery Proceeds Fund, to the Classroom Trust Fund
From Lottery Proceeds Fund. \$10,464,908

SECTION 2.310.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
Gaming Proceeds for Education Fund, to the School District Bond Fund
From Gaming Proceeds for Education Fund. \$392,000

SECTION 2.315.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
School Building Revolving Fund, to the State School Moneys Fund
From School Building Revolving Fund. \$2,000,000E

BILL TOTALS

General Revenue Fund.	\$3,002,412,965
Federal Funds.	950,859,501
Other Funds.	<u>1,393,864,003</u>
Total.	\$5,347,136,469

Approved June 27, 2008

HB 2003 [CCS SCS HCS HB 2003]

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education, the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 3.005.— To the Department of Higher Education
 For Higher Education Coordination, for regulation of proprietary
 schools as provided in Section 173.600, RSMo, and for grant and
 scholarship program administration
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal services and expense and equipment

From General Revenue Fund.	\$1,151,700
From Federal and Other Funds.	337,046E
Total (Not to exceed 22.58 F.T.E.).	\$1,488,746

Section 3.010.— To the Department of Higher Education
 For indemnifying individuals as a result of improper actions on the
 part of proprietary schools as provided in Section 173.612, RSMo
 From Proprietary School Bond Fund. \$100,000

SECTION 3.015.— To the Department of Higher Education
 For annual membership in the Midwestern Higher Education Compact
 From General Revenue Fund. \$95,000

SECTION 3.020.— To the Department of Higher Education
 For the Eisenhower Science and Mathematics Program and the Improving
 Teacher Quality State Grants Program
 Personal Service. \$64,022
 Expense and Equipment 20,400
 Federal Education Programs. 1,698,000
 From Federal Funds (Not to exceed 1.00 F.T.E.). \$1,782,422

SECTION 3.025.— To the Department of Higher Education
 For receiving and expending donations and federal funds provided that
 the General Assembly shall be notified of the source of any new
 funds and the purpose for which they shall be expended, in
 writing, prior to the expenditure of said funds
 From Federal and Other Funds. \$2,000,000

SECTION 3.030.— To the Department of Higher Education
 Funds are to be transferred out of the State Treasury, chargeable to
 the General Revenue Fund, to the Academic Scholarship Fund
 From General Revenue Fund. \$16,359,000

SECTION 3.035.— To the Department of Higher Education
 For the Higher Education Academic Scholarship Program pursuant to
 Chapter 173, RSMo
 From Academic Scholarship Fund. \$16,359,000E

SECTION 3.040.— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to the funds listed below, to the Access Missouri Financial Assistance Fund

From General Revenue Fund.	\$77,860,640
From Federal Funds	1,000,000E
From Lottery Proceeds Fund	11,916,667
From Advantage Missouri Trust Fund	630,830E
From Missouri Student Grant Program Gift Fund.	50,000E
Total.	<u>\$91,458,137</u>

SECTION 3.045.— To the Department of Higher Education

For the Access Missouri Financial Assistance Program pursuant to Chapter 173, RSMo

From Access Missouri Financial Assistance Fund.	\$95,827,307E
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SECTION 3.050.— To the Department of Higher Education

For the Public Service Officer or Employee Survivor Grant Program pursuant to Section 173.260, RSMo

From General Revenue Fund.	\$100,000
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SECTION 3.055.— To the Department of Higher Education

For the Vietnam Veterans Survivors Scholarship Program pursuant to Section 173.235, RSMo

From General Revenue Fund.	\$50,000
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SECTION 3.060.— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Marguerite Ross Barnett Scholarship Fund

From General Revenue Fund.	\$425,000
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SECTION 3.065.— To the Department of Higher Education

For the Marguerite Ross Barnett Scholarship Program pursuant to Section 173.262, RSMo

From Marguerite Ross Barnett Scholarship Fund.	\$425,000E
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SECTION 3.067.— To the Department of Higher Education

For the Advantage Missouri Program pursuant to Chapter 173, RSMo

From Advantage Missouri Trust Fund.	\$15,000E
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SECTION 3.070.— To the Department of Higher Education

For GEAR UP Program scholarships

From GEAR UP Scholarship Fund.	\$700,000E
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Section 3.075.— To the Department of Higher Education

For the Missouri Guaranteed Student Loan Program

Personal Service and/or Expense and Equipment.	\$11,111,848
Default prevention activities	890,000
Payment of fees for collection of defaulted loans	4,000,000E
Payment of penalties to the federal government associated with late deposit of default collections.	500,000
From Guaranty Agency Operating Fund (Not to exceed 52.09 F.T.E.).	<u>\$16,501,848</u>

SECTION 3.080.— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to
the Federal Student Loan Reserve Fund, to the Guaranty Agency
Operating Fund

From Federal Student Loan Reserve Fund. \$8,000,000E

SECTION 3.085.— To the Department of Higher Education

For purchase of defaulted loans, payment of default aversion fees,
reimbursement to the federal government, and investment of funds
in the Federal Student Loan Reserve Fund

From Federal Student Loan Reserve Fund. \$125,000,000E

SECTION 3.090.— To the Department of Higher Education

For payment of refunds set off against debt as required by
Section 143.786, RSMo

From Debt Offset Escrow Fund. \$250,000E

SECTION 3.095.— To the Department of Higher Education

Funds are to be transferred out of the State Treasury, chargeable to
the Guaranty Agency Operating Fund, to the Federal Student
Loan Reserve Fund

From Guaranty Agency Operating Fund. \$1,000,000E

SECTION 3.100.— To the Department of Higher Education

For distribution to community colleges as provided in Section
163.191, RSMo

From General Revenue Fund. \$135,884,434

From Lottery Proceeds Fund 7,452,485

For maintenance and repair at community colleges, local matching
funds must be provided on a 50/50 state/local match rate in
order to be eligible for state funds

From General Revenue Fund 5,040,498

For the payment of refunds set off against debt as required by
Section 143.786, RSMo

From Debt Offset Escrow Fund. 250,000E

Total. \$148,627,417

SECTION 3.105.— To Linn State Technical College

All Expenditures

From General Revenue Fund. \$4,816,092

From Lottery Proceeds Fund 420,528

For the payment of refunds set off against debt as required by
Section 143.786, RSMo

From Debt Offset Escrow Fund. 30,000E

Total. \$5,266,620

SECTION 3.110.— To the University of Central Missouri

All Expenditures

From General Revenue Fund. \$54,691,363

From Lottery Proceeds Fund 4,985,715

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total.	\$59,752,078

SECTION 3.115. — To Southeast Missouri State University

All Expenditures

From General Revenue Fund.	\$44,586,116
From Lottery Proceeds Fund	4,059,895

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total.	\$48,721,011

SECTION 3.120. — To Missouri State University

All Expenditures

From General Revenue Fund.	\$82,323,813
From Lottery Proceeds Fund	7,675,409

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total.	\$90,074,222

SECTION 3.125. — To Lincoln University

All Expenditures

From General Revenue Fund.	\$18,229,608
From Lottery Proceeds Fund	1,551,205

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total.	\$19,855,813

SECTION 3.130. — To Truman State University

All Expenditures

From General Revenue Fund.	\$41,385,401
From Lottery Proceeds Fund	3,776,109

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.	75,000E
Total.	\$45,236,510

SECTION 3.135. — To Northwest Missouri State University

All Expenditures

From General Revenue Fund.	\$30,499,119
From Lottery Proceeds Fund	2,599,805

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.....	75,000E
Total.....	\$33,173,924

SECTION 3.140.— To Missouri Southern State University

All Expenditures

From General Revenue Fund.....	\$23,624,338
From Lottery Proceeds Fund	1,972,820

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.....	75,000E
Total.....	\$25,672,158

SECTION 3.145.— To Missouri Western State University

All Expenditures

From General Revenue Fund.....	\$21,620,312
From Lottery Proceeds Fund	1,968,039

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.....	75,000E
Total.....	\$23,663,351

SECTION 3.150.— To Harris-Stowe State University

All Expenditures

From General Revenue Fund.....	\$9,967,830
From Lottery Proceeds Fund	908,704

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.....	75,000E
Total.....	\$10,951,534

SECTION 3.155.— To the University of Missouri

For operation of its various campuses and programs

All Expenditures

From General Revenue Fund.....	\$414,606,569
From Lottery Proceeds Fund	36,869,596

For the payment of refunds set off against debt as required by

Section 143.786, RSMo

From Debt Offset Escrow Fund.....	200,000E
Total.....	\$451,676,165

***SECTION 3.160.**— To the University of Missouri

For the Missouri Telehealth Network

All Expenditures

From General Revenue Fund.....	\$420,000
From Healthy Families Trust Fund - Health Care Account.	437,640
Total.....	\$857,640

*I hereby veto the words "- Health Care Account". As acknowledged by the General Assembly, the inclusion of this text was an error. The Healthy Families Trust Fund - Health Care Account was abolished as per Executive Order 06-22, signed June 22, 2006. This and all other subaccounts of the Healthy Families Trust Fund were transferred to the Healthy Families Trust Fund by the same executive order. By deleting the words "- Health Care Account," the appropriation of \$437,640 for the Missouri Telehealth Network will be from the properly named Healthy Families Trust Fund.

MATT BLUNT, GOVERNOR

SECTION 3.165.— To the University of Missouri
For the Missouri Research and Education Network (MOREnet)
All Expenditures
From General Revenue Fund. \$12,754,612

SECTION 3.170.— To the University of Missouri
For the University of Missouri Hospital and Clinics
All Expenditures
From General Revenue Fund. \$13,185,079

SECTION 3.175.— To the University of Missouri
For the Missouri Rehabilitation Center
All Expenditures
From General Revenue Fund. \$11,651,691

SECTION 3.180.— To the University of Missouri
For a program of research into spinal cord injuries
All Expenditures
From Spinal Cord Injury Fund. \$400,000E

SECTION 3.185.— To the University of Missouri
For the Missouri Institute of Mental Health
All Expenditures
From General Revenue Fund. \$1,839,880

SECTION 3.190.— To the University of Missouri
For the treatment of renal disease in a statewide program
All Expenditures
From General Revenue Fund. \$4,016,774

SECTION 3.195.— To the University of Missouri
For the State Historical Society
All Expenditures
From General Revenue Fund. \$1,619,561

SECTION 3.200.— To the Board of Curators of the University of Missouri
For investment in registered federal, state, county, municipal, or
school district bonds as provided by law
From State Seminary Fund. \$3,000,000

SECTION 3.205.— To the Board of Curators of the University of Missouri
For use by the University of Missouri
From State Seminary Moneys Fund, Income from Investments. \$250,000

BILL TOTALS

General Revenue Fund.	\$1,028,804,430
Federal Funds.	5,119,468
Other Funds.	<u>233,227,295</u>
Total.	\$1,267,151,193

Approved June 27, 2008

HB 2004 [CCS SCS HB 2004]
APPROPRIATIONS: DEPARTMENT OF REVENUE AND DEPARTMENT OF TRANSPORTATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue, Department of Transportation, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009, as follows:

SECTION 4.005. — To the Department of Revenue

For the purpose of collecting highway related fees and taxes

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	\$14,524,494
From State Highways and Transportation Department Fund	11,715,283

Annual salary adjustment in accordance with Section 105.005, RSMo

From General Revenue Fund.	1,123
From State Highways and Transportation Department Fund.	<u>875</u>
Total (Not to exceed 520.14 F.T.E.).	\$26,241,775

Section 4.006. — To the Department of Revenue

For the Division of Customer Services-Taxation

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment, also thirty percent (30%) flexibility is allowed between Section 4.006 and Section 4.007

From General Revenue Fund.	\$15,851,463
From Petroleum Storage Tank Insurance Fund	27,654
From Petroleum Inspection Fund	35,497
From Health Initiatives Fund	53,714

From Conservation Commission Fund	555,816
From Elderly Home-Delivered Meals Trust Fund.	12,582
Total (Not to exceed 466.10 F.T.E.).	<u>\$16,536,726</u>

SECTION 4.007. — To the Department of Revenue

For the Division of Customer Services-Motor Vehicle and Driver Licensing
 Personal Service and/or Expense and Equipment, provided that not more
 than twenty-five percent (25%) flexibility is allowed between personal
 service and expense and equipment, also thirty percent (30%) flexibility
 is allowed between Section 4.006 and Section 4.007

From General Revenue Fund.	\$950,871
From Federal Funds	328,457
From Department of Revenue Information Fund.	489,829
From Motor Vehicle Commission Fund	618,978
From Department of Revenue Specialty Plate Fund.	5,206
Total (Not to exceed 47.55 F.T.E.).	<u>\$2,393,341</u>

SECTION 4.008. — To the Department of Revenue

For the Division of Legal Services

Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment

From General Revenue Fund.	\$1,951,691
From Federal Funds	70,000
From Motor Vehicle Commission Fund.	492,058
Total (Not to exceed 54.68 F.T.E.).	<u>\$2,513,749</u>

SECTION 4.010. — To the Department of Revenue

For the Division of Fiscal Services

Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment

From General Revenue Fund.	\$11,362,054
From Federal Funds	6,020,764
From Department of Revenue Information Fund.	119,433
From Child Support Enforcement Collections Fund.	2,624,213

Annual salary adjustment in accordance with Section 105.005, RSMo

From General Revenue Fund.	1,319
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For postage

Expense and Equipment

From General Revenue Fund.	3,044,793
From Health Initiatives Fund	5,190
From Motor Vehicle Commission Fund	42,527
From Conservation Commission Fund.	1,297
From Department of Revenue Information Fund.	192,802
Total (Not to exceed 230.24 F.T.E.).	<u>\$23,414,392</u>

SECTION 4.015. — To the Department of Revenue

For the Office of Administration

For administration of central mail personnel and resources by the

General Services Division

Personal Service and/or Expense and Equipment

From General Revenue Fund..... \$665,558

From State Highways and Transportation Department Fund..... 114,737

Total (Not to exceed 30.00 F.T.E.)..... \$780,295

SECTION 4.020.— To the Department of Revenue

For the State Tax Commission

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund..... \$3,033,926

Annual salary adjustment in accordance with Section 105.005, RSMo

From General Revenue Fund..... 9,180

Expense and Equipment

For the Productive Capability of Agricultural and Horticultural Land Use study

From General Revenue Fund..... 5,000

Total (Not to exceed 60.75 F.T.E.). \$3,048,106

SECTION 4.025.— To the Department of Revenue

For the state's share of the costs and expenses incurred pursuant to
an approved assessment and equalization maintenance plan as
provided by Chapter 137, RSMo

From General Revenue Fund..... \$19,020,668

SECTION 4.035.— To the Department of Revenue

For payment of fees to counties as a result of delinquent collections
made by circuit attorneys or prosecuting attorneys and payment
of collection agency fees

From General Revenue Fund..... \$2,580,000E

SECTION 4.040.— To the Department of Revenue

For payment of fees to counties for the filing of lien notices and lien releases

From General Revenue Fund..... \$200,000

SECTION 4.045.— To the Department of Revenue

For distribution to the several counties and the City of St. Louis to
offset property taxes for homestead preservation

From General Revenue Fund..... \$91,089

SECTION 4.050.— To the Department of Revenue

For distribution to cities and counties of all funds accruing to the
Motor Fuel Tax Fund under the provisions of Sections 30(a) and
30(b), Article IV, Constitution of Missouri

From Motor Fuel Tax Fund..... \$188,000,000E

SECTION 4.055.— To the Department of Revenue

For distribution to Veterans of Foreign Wars Department of Missouri
of all emblem use fee contributions collected for the SOME GAVE
ALL specialty plate

From General Revenue Fund. \$1,000E

SECTION 4.060.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any
payment that is credited to the General Revenue Fund

From General Revenue Fund. \$1,356,000,000E

SECTION 4.065.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any
payment credited to Federal and Other Funds

From Federal and Other Funds. \$34,850E

SECTION 4.070.— To the Department of Revenue

For the purpose of refunding any tax or fee credited to the State
Highways and Transportation Department Fund

From State Highways and Transportation Department Fund. \$2,290,564E

SECTION 4.075.— To the Department of Revenue

For the purpose of refunding any overpayment or erroneous payment of
any amount credited to the Aviation Trust Fund

From Aviation Trust Fund. \$50,000E

SECTION 4.080.— To the Department of Revenue

For refunds and distributions of motor fuel taxes

From State Highways and Transportation Department Fund. \$10,414,000E

SECTION 4.085.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any
payment credited to the Workers' Compensation Fund

From Workers' Compensation Fund. \$450,000E

SECTION 4.090.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any
payment for tobacco taxes

From Health Initiatives Fund. \$25,000E

From State School Money Fund 25,000E

From Fair Share Fund 11,000E

Total. \$61,000

SECTION 4.095.— To the Department of Revenue

For apportionments to the several counties and the City of St. Louis
to offset credits taken against the County Stock Insurance Tax

From General Revenue Fund. \$500,000E

SECTION 4.100.— To the Department of Revenue

For the payment of local sales tax delinquencies set off by tax credits

From General Revenue Fund. \$200,000E

SECTION 4.105.— There is transferred out of the State Treasury,

chargeable to the General Revenue Fund, such amounts as may be
necessary to make payments of refunds set off against debts as required
by Section 143.786, RSMo, to the Debt Offset Escrow Fund

From General Revenue Fund. \$11,292,384E

SECTION 4.110.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, such amounts as may be
necessary to make payments of refunds set off against debts as required
by Section 488.020(3), RSMo, to the Circuit Courts Escrow Fund

From General Revenue Fund. \$505,500E

SECTION 4.115.— For the payment of refunds set off against debts as
required by Section 143.786, RSMo

From Debt Offset Escrow Fund. \$250,000E

SECTION 4.120.— Funds are to be transferred out of the State
Treasury, chargeable to the School District Trust Fund, to the
General Revenue Fund

From School District Trust Fund. \$2,500,000

SECTION 4.125.— There is transferred out of the State Treasury,
chargeable to the Parks Sales Tax Fund, sixty-six hundredths
percent of the funds received, to the General Revenue Fund

From Parks Sales Tax Fund. \$240,000E

SECTION 4.130.— There is transferred out of the State Treasury,
chargeable to the Soil and Water Sales Tax Fund, sixty-six hundredths
percent of the funds received, to the General Revenue Fund

From Soil and Water Sales Tax Fund. \$240,000E

SECTION 4.135.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, such amounts generated
by development projects, as required by Section 99.963, RSMo, to
the State Supplemental Downtown Development Fund

From General Revenue Fund. \$3,146,400

SECTION 4.140.— There is transferred out of the state treasury,
chargeable to the General Revenue Fund, such amounts generated
by redevelopment projects, as required by Section 99.1090, RSMo,
to the Downtown Revitalization Preservation Fund

From General Revenue Fund. \$100,000

SECTION 4.145.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, amounts from income tax
refunds designated by taxpayers for deposit in various income
tax check-off funds

From General Revenue Fund. \$396,000E

SECTION 4.150.— There is transferred out of the State Treasury,
chargeable to various income tax check-off funds, amounts from
income tax refunds erroneously deposited to said funds, to the
General Revenue Fund

From Other Funds. \$13,669E

SECTION 4.155.— For distribution from the various income tax check-
off charitable trust funds

From Other Funds. \$31,500E

SECTION 4.160.— Funds are to be transferred out of the State

Treasury, chargeable to the Department of Revenue Information
Fund, to the State Highways and Transportation Department Fund

From Department of Revenue Information Fund. \$250,000E

SECTION 4.165.— Funds are to be transferred out of the State

Treasury, chargeable to the Motor Fuel Tax Fund, to the State
Highways and Transportation Department Fund

From Motor Fuel Tax Fund. \$560,178,001E

SECTION 4.170.— To the Department of Revenue

For the State Lottery Commission

For any and all expenditures, including operating, maintenance and
repair, and minor renovations, necessary for the purpose of
operating a state lottery, provided that not more than twenty
percent (20%) flexibility is allowed between each appropriation

Personal Service. \$7,361,934

Expense and Equipment 31,253,502E

From Lottery Enterprise Fund (Not to exceed 173.50 F.T.E.).. . . . \$38,615,436

SECTION 4.175.— To the Department of Revenue

For the State Lottery Commission

For the payment of prizes

From Lottery Enterprise Fund.. . . . \$102,000,000E

SECTION 4.180.— Funds are to be transferred out of the State

Treasury, chargeable to the Lottery Enterprise Fund, to the
Lottery Proceeds Fund

From Lottery Enterprise Fund.. . . . \$260,000,000E

SECTION 4.200.— To the Department of Transportation

For the Highways and Transportation Commission and Highway Program

Administration

Personal Service.. . . . \$22,463,491E

Expense and Equipment. 5,322,263E

From State Road Fund 27,785,754

For Administration fringe benefits

Personal Service.. . . . 9,946,211E

Expense and Equipment 12,947,712E

From State Road Fund.. . . . 22,893,923

Total (Not to exceed 452.75 F.T.E.). \$50,679,677

SECTION 4.205.— To the Department of Transportation

For the Construction Program

To pay the costs of reimbursing counties and other political
subdivisions for the acquisition of roads and bridges taken over
by the state as permanent parts of the state highway system, and
for the costs of locating, relocating, establishing, acquiring,
constructing, reconstructing, widening, and improving those

highways, bridges, tunnels, parkways, travelways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to receive funds from the United States Government for like purposes

Personal Service.	\$93,233,976E
Expense and Equipment	24,026,984E
Construction.	<u>1,355,066,922E</u>
From State Road Fund	1,472,327,882

For all expenditures associated with refunding outstanding state road bond debt

From State Road Fund	85,468,000E
From State Road Bond Fund.	118,743,000E

For Construction Program fringe benefits

Personal Service.	42,705,642E
Expense and Equipment.	<u>402,126E</u>
From State Road Fund.	<u>43,107,768</u>
Total (Not to exceed 1,939.00 F.T.E.).	\$1,719,646,650

SECTION 4.210. — To the Department of Transportation

For the Federal Transportation Enhancement Program

From State Road Fund.	\$25,700,000E
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SECTION 4.215. — To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the preservation, maintenance, and safety of highways and bridges

Personal Service.	\$356,502E
Expense and Equipment.	<u>55,000</u>
From Federal Funds	411,502

Personal Service.	151,018,630E
Expense and Equipment	<u>204,264,040E</u>
From State Road Fund	355,282,670

Expense and Equipment	
From Motorcycle Safety Trust Fund.	425,000E

For Maintenance Program fringe benefits

Personal Service.	79,108E
Expense and Equipment.	<u>387E</u>
From Federal Funds	79,495

Personal Service.	74,244,678E
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Expense and Equipment.	4,473,684E
From State Road Fund	78,718,362

For all allotments, grants, and contributions from federal sources
that may be deposited in the State Treasury for grants of
National Highway Safety Act moneys

From Federal Funds	30,000,000E
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For the Motor Carrier Safety Assistance Program

From Federal Funds	2,000,000E
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For the Safe Routes to School Program

From State Road Fund	2,500,000E
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For the Blood Alcohol Program

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	83,377
Total (Not to exceed 3,970.25 F.T.E.).	\$469,500,406

SECTION 4.220.— To the Department of Transportation

For the Motor Carriers Service Program

Personal Service.	\$4,041,453E
Expense and Equipment	1,827,335E
From State Road Fund	5,868,788

For Motor Carriers Service fringe benefits

Personal Service.	1,345,717E
Expense and Equipment.	6,223E
From State Road Fund.	1,351,940
Total (Not to exceed 109.00 F.T.E.).	\$7,220,728

SECTION 4.225.— To the Department of Transportation

For the Motorist Assistance Program

Personal Service.	\$2,021,877E
Expense and Equipment.	488,650E
From State Road Fund.	2,510,527

For Motorist Assistance fringe benefits

Personal Service.	1,033,352E
Expense and Equipment.	95,148E
From State Road Fund.	1,128,500
Total (Not to exceed 53.00 F.T.E.).	\$3,639,027

SECTION 4.230.— To the Department of Transportation

For Fleet, Facilities, and Information Systems

To pay the costs of constructing, preserving, and maintaining the
state system of roads and bridges and coordinated facilities
authorized under Article IV, Section 30(b) of the Constitution
of Missouri; of acquiring materials, equipment, and buildings
necessary for such purposes and for other purposes and

contingencies related to the construction, preservation, and maintenance of highways and bridges	
Personal Service.	\$17,026,655E
Expense and Equipment.	<u>89,099,165E</u>
From State Road Fund	106,125,820

For Fleet, Facilities, and Information Systems fringe benefits	
Personal Service.	8,075,398E
Expense and Equipment.	<u>115,590E</u>
From State Road Fund.	<u>8,190,988</u>
Total (Not to exceed 386.50 F.T.E.).	\$114,316,808

SECTION 4.235.— To the Department of Transportation

For the purpose of refunding any tax or fee credited to the State Highways

and Transportation Department Fund.	\$800,000E
For refunds and distributions of motor fuel taxes.	<u>30,000,000E</u>
From State Highways and Transportation Fund.	\$30,800,000

SECTION 4.240.— Funds are to be transferred out of the State

Treasury, chargeable to the State Highways and Transportation
Fund, to the State Road Fund

From State Highways and Transportation Department Fund.	\$500,000,000E
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SECTION 4.245.— To the Department of Transportation

For Multimodal Operations Administration

Personal Service.	\$539,586E
Expense and Equipment.	<u>400,000E</u>
From Federal Funds	939,586

Personal Service.	367,846E
Expense and Equipment.	<u>129,897E</u>
From State Road Fund	497,743

Personal Service.	446,612
Expense and Equipment.	<u>151,421</u>
From Railroad Expense Fund	598,033

Personal Service	159,835
Expense and Equipment.	<u>10,395</u>
From State Transportation Fund	170,230

Personal Service.	482,604
Expense and Equipment.	<u>324,827</u>
From Aviation Trust Fund	807,431

For Multimodal Operations fringe benefits

Personal Service	
From Federal Funds	227,084E
From State Road Fund	116,814E
From Railroad Expense Fund	147,606E
From State Transportation Fund	49,930E
From Aviation Trust Fund.	<u>212,410E</u>
Total (Not to exceed 36.50 F.T.E.).	\$3,766,867

SECTION 4.250.— To the Department of Transportation

For Multimodal Operations

For reimbursements to the State Road Fund for providing professional and technical services and administrative support of the multimodal program

From Federal Funds.	\$78,500
From Railroad Expense Fund	102,532
From State Transportation Fund	50,951
From Aviation Trust Fund.	67,067
Total.	<u>\$299,050</u>

SECTION 4.255.— To the Department of Transportation

For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to

political subdivisions of the state or to public or private not-for-profit organizations or entities in accordance with

Section 226.191, RSMo

From State Transportation Assistance Revolving Fund.	\$550,000E
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SECTION 4.258.— To the Department of Transportation

For the purpose of funding the Mississippi River Parkway Commission

From General Revenue Fund.	\$50,000
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SECTION 4.260.— To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural transportation systems

From General Revenue Fund.	\$3,765,589
From State Transportation Fund.	250,000
Total.	<u>\$4,015,589</u>

SECTION 4.265.— To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310,

Title 49, United States Code to assist private, non-profit organizations in improving public transportation for the state's elderly and people with disabilities

From Federal Funds.	\$2,440,000E
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For the New Freedom Transit Program

For locally matched grants under Section 5317, Title 49, United States

Code to assist disabled persons with transportation services beyond those required by the Americans with Disabilities Act

From Federal Funds.	600,000E
Total.	<u>\$3,040,000</u>

SECTION 4.270.— To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the

elderly, people with disabilities, and low-income individuals

From General Revenue Fund.	\$2,343,732
From State Transportation Fund.	1,100,000
Total.	<u>\$3,443,732</u>

SECTION 4.275.— To the Department of Transportation

For the Transit Program

For grants to urban areas under Section 5307, Title 49, United States Code

From Federal Funds. \$1E

SECTION 4.280.— To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under

Section 5311, Title 49, United States Code

From Federal and Local Funds. \$9,000,000E

For the Job Access and Reverse Commute Grants Program

For locally matched grants to small urban and rural areas under

Section 5316, Title 49, United States Code to provide employment
related transportation for welfare or low-income personsFrom Federal Funds. 1,200,000ETotal. \$10,200,000**SECTION 4.285.**— To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist

public and private, non-profit organizations providing public
transportation services

From Federal Funds. \$8,480,000E

SECTION 4.290.— To the Department of Transportation

For the Transit Program

For grants to metropolitan areas under Section 5303, Title 49, United

States Code

From Federal Funds. \$6,004,900E

SECTION 4.295.— To the Department of Transportation

For the Rail Program

For grants under Section 5 of the Department of Transportation Act,
as amended by the reauthorizing act, for acquisition, rehabilitation,
improvement, or rail facility construction assistance

From Federal Funds. \$1E

For grants to study the feasibility of high speed rail service

From Federal Funds 1ETotal. \$2**SECTION 4.300.**— To the Department of Transportation

For the Light Rail Safety Program

From Light Rail Safety Fund. \$1E

SECTION 4.305.— To the Department of Transportation

For the Rail Program

For passenger rail service in Missouri

From General Revenue Fund. \$6,900,000

From State Transportation Fund. 1,100,000Total. \$8,000,000

SECTION 4.310.— To the Department of Transportation
 For station repairs and improvements at Missouri Amtrak stations
 From State Transportation Fund. \$25,000

SECTION 4.315.— To the Department of Transportation
 For protection of the public against hazards existing at railroad
 crossings pursuant to Chapter 389, RSMo
 From Transportation Department Grade Crossing Safety Account. \$1,500,000E

SECTION 4.320.— Funds are to be transferred out of the State
 Treasury, chargeable to the Transportation Department Grade
 Crossing Safety Account, to the Railroad Expense Fund
 From Transportation Department Grade Crossing Safety Account. \$100,000

SECTION 4.325.— To the Department of Transportation
 For the Aviation Program
 For construction, capital improvements, and maintenance of publicly
 owned airfields, including land acquisition, and for printing
 charts and directories
 From Aviation Trust Fund. \$5,000,000E

SECTION 4.330.— To the Department of Transportation
 For the Aviation Program
 For construction, capital improvements, or planning of publicly owned
 airfields by cities or other political subdivisions, including
 land acquisition, pursuant to the provisions of the State Block
 Grant Program administered through the Federal Airport
 Improvement Program
 From Federal Funds. \$12,500,000E

SECTION 4.335.— To the Department of Transportation
 For the Waterways Program
 For grants to port authorities for assistance in port planning,
 acquisition, or construction within the port districts
 From State Transportation Fund. \$450,000

For ferryboat operation grants
 From State Road Fund 160,000E
 Total. \$610,000

DEPARTMENT OF REVENUE TOTALS

General Revenue Fund. \$89,434,513
 Federal Funds. 6,419,221
 Other Funds. 345,723,127
 Total. \$441,576,861

DEPARTMENT OF TRANSPORTATION TOTALS

General Revenue Fund. \$13,142,698
 Federal Funds. 73,961,070
 Other Funds. 2,371,084,670
 Total. \$2,458,188,438

Approved June 27, 2008

HB 2005 [CCS SCS HCS HB 2005]

**APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION,
DEPARTMENT OF PUBLIC SAFETY, AND CHIEF EXECUTIVE'S OFFICE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009, as follows:

SECTION 5.005.— To the Office of Administration

For the Commissioner's Office

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	\$1,116,163
Annual salary adjustment in accordance with Section 105.005, RSMo	3,611

For the Office of Supplier and Workforce Diversity

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	366,003
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For the Martin Luther King, Jr. Commission

Expense and Equipment.	40,189
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From General Revenue Fund (Not to exceed 25.00 F.T.E.).	\$1,525,966
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SECTION 5.010.— To the Office of Administration

For the Division of Accounting

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
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From General Revenue Fund (Not to exceed 54.50 F.T.E.).	\$2,446,725
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SECTION 5.015.— To the Office of Administration

For the Division of Budget and Planning

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
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From General Revenue Fund (Not to exceed 28.00 F.T.E.).	\$1,739,836
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SECTION 5.020.— To the Office of Administration

For the Division of Budget and Planning

For research, development, census, or redistricting activities	
From General Revenue Fund.	\$15,030
From Federal Funds.	<u>1E</u>
Total.	\$15,031

SECTION 5.025.— To the Office of Administration

For the Information Technology Services Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment including funds used exclusively to support the information technology needs of the Department of Revenue in performance of its duties to collect highway revenue pursuant to Article IV, Section 30(6) of the Missouri Constitution

From General Revenue Fund. \$62,022,568

Personal Service and/or Expense and Equipment, provided that not more than one hundred percent (100%) flexibility is allowed between personal service and expense and equipment

From Federal Funds and Other Funds. 161,616,261

In addition, there is hereby appropriated out of funds made available to Missouri under Section 903 of the Social Security Act, as necessary, to be used, under the direction of the Information Technology Services Division, Personal Service and/or Expense and Equipment, provided that not more than one hundred percent (100%) flexibility is allowed between personal service and expense and equipment, for the purpose of acquiring or developing information technology equipment, software or systems for the administration of Missouri's Unemployment Compensation Law and for such information technology expenses which may be incurred to ensure the proper use and operation of any information technology equipment, software or systems

From Unemployment Compensation Administration Federal Funds.	<u>798,281</u>
Total (Not to exceed 1,181.49 F.T.E.).	\$224,437,110

SECTION 5.030.— To the Office of Administration

For the Information Technology Services Division

For the centralized telephone billing system

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund. \$30,005,000E

SECTION 5.035.— To the Office of Administration

For the Division of Personnel

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. \$2,621,337

Personal Service.	68,795
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Expense and Equipment.	<u>315,716</u>
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From Office of Administration Revolving Administrative Trust Fund.	<u>384,511</u>
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Total (Not to exceed 62.47 F.T.E.).	\$3,005,848
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SECTION 5.040.— To the Office of Administration
For the Division of Purchasing and Materials Management
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund (Not to exceed 35.00 F.T.E.). \$1,796,040

SECTION 5.045.— To the Office of Administration
For the Division of Purchasing and Materials Management
For refunding bid and performance bonds
From Office of Administration Revolving Administrative Trust Fund. \$2,112,000E

SECTION 5.050.— To the Office of Administration
For the Division of Purchasing and Materials Management
For operation of the State Agency for Surplus Property, provided that
not more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment
Personal Service. \$792,055
Expense and Equipment 402,000
Fixed Price Vehicle Program. 600,000
From Federal Surplus Property Fund (Not to exceed 21.00 F.T.E.). \$1,794,055

SECTION 5.055.— To the Office of Administration
For the Division of Purchasing and Materials Management
For Surplus Property recycling activities
From Federal Surplus Property Fund. \$41,610E

SECTION 5.060.— There is transferred out of the State Treasury,
chargeable to the Federal Surplus Property Fund, to the
Department of Social Services for the heating assistance
program, as provided by Section 34.032, RSMo
From Federal Surplus Property Fund. \$20,000E

SECTION 5.065.— To the Office of Administration
For the Division of Purchasing and Materials Management
For the disbursement of surplus property sales receipts
From Proceeds of Surplus Property Sales Fund. \$90,000E

SECTION 5.070.— There is transferred out of the State Treasury,
chargeable to the Proceeds of Surplus Property Sales Fund, to
various state agency funds
From Proceeds of Surplus Property Sales Fund. \$1,000,000E

SECTION 5.075.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
Asset Management
For authority to spend donated funds to support renovations and
operations of the Governor's Mansion
From State Facility Maintenance and Operation Fund. \$30,000E

SECTION 5.080.— To the Office of Administration
For the Division of Facilities Management, Design and Construction

Asset Management

For any and all expenditures necessary for the purpose of funding the operations of the Board of Public Buildings, state-owned and leased office buildings, laboratories, and support facilities
 Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 From State Facility Maintenance and Operation Fund (Not to exceed 516.00 F.T.E.). \$85,307,000

SECTION 5.085. — To the Office of Administration

For the Division of Facilities Management, Design and Construction
 Asset Management
 For annual payment for guaranteed energy cost savings contracts
 From Office of Administration Revolving Administrative Trust Fund. \$1E

SECTION 5.090. — To the Office of Administration

For the Division of Facilities Management, Design and Construction
 Asset Management
 For the purpose of funding expenditures associated with the Second State Capitol Commission
 Expense and Equipment
 From Second State Capitol Commission Fund. \$25,000E

SECTION 5.095. — To the Board of Public Buildings

For the Office of Administration
 For the Division of Facilities Management, Design and Construction
 Asset Management
 For modifications, replacement, repair costs, and other support services at state-owned facilities when recovery is obtained from a third party
 From State Facility Maintenance and Operation Fund. \$708,871E

SECTION 5.100. — To the Office of Administration

For the Division of General Services
 Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 From General Revenue Fund. \$1,081,894

Personal Service.	2,521,439
Expense and Equipment.	889,728
From Office of Administration Revolving Administrative Trust Fund.	<u>3,411,167</u>
Total (Not to exceed 99.50 F.T.E.).	\$4,493,061

SECTION 5.105. — There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the State Property Preservation Fund

From General Revenue Fund. \$1E

SECTION 5.110. — To the Office of Administration

For the Division of General Services

For the repair or replacement of state-owned or leased facilities
that have suffered damage from natural or man-made events or for
the defeasance of outstanding debt secured by the damaged
facilities when a notice of coverage has been issued by the
Commissioner of Administration, as provided by Sections 37.410
through 37.413, RSMo
From State Property Preservation Fund. \$1E

SECTION 5.115.— To the Office of Administration
For the Division of General Services
For the replacement of state-owned fleet vehicles and related administrative
expenses authorized, in part, by Section 37.450 et seq., RSMo
From General Revenue Fund. \$1,164,000

SECTION 5.120.— To the Office of Administration
For the Division of General Services
For reimbursable expenses and for the replacement or repair of damaged
equipment when recovery is obtained from a third party
Expense and Equipment
From Office of Administration Revolving Administrative Trust Fund. \$10,000,000E

SECTION 5.125.— There is transferred out of the State Treasury,
chargeable to the funds shown below, for the payment of claims,
premiums, and expenses as provided by Sections 105.711 through
105.726, RSMo, the following amounts to the State Legal Expense
Fund
From General Revenue Fund. \$6,000,000E
From Office of Administration Revolving Administrative Trust Fund. 25,000E
From Conservation Commission Fund. 130,000E
From Parks Sales Tax 2,286E
From State Highways and Transportation Department Fund 600,000E
From Soil and Water Sales Tax Fund. 149E
Total. \$6,757,435

SECTION 5.130.— To the Office of Administration
For the Division of General Services
For the payment of claims and expenses as provided by Section 105.711
et seq., RSMo, and for purchasing insurance against any or all
liability of the State of Missouri or any agency, officer, or
employee thereof
From State Legal Expense Fund. \$6,757,435E

SECTION 5.135.— To the Office of Administration
For the Administrative Hearing Commission
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment. \$974,964
Annual salary adjustment in accordance with Section 105.005, RSMo 8,950
From General Revenue Fund (Not to exceed 16.00 F.T.E.). \$983,914

SECTION 5.140.— To the Office of Administration
For the purpose of funding the Office of Child Advocate

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 From General Revenue Fund. \$174,368

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 From Federal Funds. 137,997
 Total (Not to exceed 4.00 F.T.E.). \$312,365

SECTION 5.145.— To the Office of Administration

For the administrative, promotional, and programmatic costs of the Children's Trust Fund Board as provided by Section 210.173, RSMo
 Personal Service. \$211,199
 Expense and Equipment 145,140
 For Program Disbursements. 3,360,000E
 From Children's Trust Fund (Not to exceed 5.00 F.T.E.). \$3,716,339

SECTION 5.150.— To the Office of Administration

For the purpose of funding the Governor's Council on Disability
 Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 From General Revenue Fund. \$211,945
 From Office of Administration Revolving Administrative Trust Fund. 40,000
 Total (Not to exceed 4.00 F.T.E.). \$251,945

SECTION 5.155.— To the Office of Administration

For those services provided through the Office of Administration that are contracted with and reimbursed by the Board of Trustees of the Missouri Public Entity Risk Management Fund as provided by Chapter 537, RSMo
 Personal Service. \$645,169
 Expense and Equipment. 61,847
 From Office of Administration Revolving Administrative Trust Fund (Not to exceed 14.00 F.T.E.). \$707,016

SECTION 5.160.— To the Office of Administration

For the Missouri Ethics Commission
 Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 20.00 F.T.E.). \$1,214,084

SECTION 5.165.— To the Office of Administration

For the Division of Accounting
 For payment of rent by the state for state agencies occupying Board of Public Buildings revenue bond financed buildings. Funds are to be used for principal, interest, bond issuance costs, and reserve fund requirements of Board of Public Buildings bonds
 From General Revenue Fund. \$61,720,026

SECTION 5.170.— To the Office of Administration

For the Division of Accounting

For annual fees, arbitrage rebate, refunding, defeasance, and related
expenses of House Bill 5 debt

From General Revenue Fund. \$30,654E

SECTION 5.175.— To the Office of Administration

For the Division of Accounting

For payment of the state's lease/purchase debt requirements

From General Revenue Fund. \$13,180,863

SECTION 5.180.— There is transferred out of the State Treasury,
chargeable to the Special Employment Security Fund, to the
Special Employment Security Fund-Principal and Interest Fund for
payments of principal and interest on any debt issued by the
Board of Unemployment Fund Financing

From Special Employment Security Fund. \$1E

SECTION 5.185.— To the Office of AdministrationFor payment of principal and interest on any debt issued by the Board
of Unemployment Fund Financing

From Special Employment Security-Principal and Interest Fund. \$1E

SECTION 5.190.— To the Office of AdministrationFor payment of a financial advisor, bond counsel, rating agency, and
other fees associated with the cost of issuance and ongoing
expenses of Board of Unemployment Fund Financing debt

From Special Employment Security Fund-Bond Proceeds Fund. \$1E

From Special Employment Security Fund. 1E

Total. \$2

SECTION 5.195.— To the Office of AdministrationFor MOHEFA debt service and all related expenses associated with the
Series 2001 MU-Columbia Arena project bonds

From General Revenue Fund. \$2,894,015

SECTION 5.200.— To the Office of AdministrationFor debt service and all related bond expenses for the Agricultural
Building at Missouri State University provided, however, that no
bonds shall be issued or debt service paid without the prior
approval of the Commissioner of the Office of Administration,
the Chair of the Senate Appropriations Committee, and the Chair
of the House Budget Committee

From General Revenue Fund. \$1

SECTION 5.205.— To the Office of Administration

For the Division of Accounting

For Debt Management

Expense and Equipment

From General Revenue Fund. \$150,000

SECTION 5.210. — To the Office of Administration	
For the Division of Accounting	
For debt service contingency for the New Jobs and Jobs Retention	
Training Certificates Program	
From General Revenue Fund.	\$1E
SECTION 5.215. — To the Office of Administration	
For the Division of Accounting	
For the Bartle Hall Convention Center expansion, operations,	
development, or maintenance in Kansas City pursuant to	
Sections 67.638 through 67.641, RSMo	
From General Revenue Fund.	\$2,000,000
SECTION 5.220. — To the Office of Administration	
For the Division of Accounting	
For the maintenance of the Jackson County Sports Complex pursuant to	
Sections 67.638 through 67.641, RSMo	
From General Revenue Fund.	\$3,000,000
SECTION 5.225. — To the Office of Administration	
For the Division of Accounting	
For the expansion of the dual-purpose Edward Jones Dome project in	
St. Louis	
From General Revenue Fund.	\$12,000,000
SECTION 5.230. — To the Office of Administration	
For the Division of Accounting	
For interest payments on federal grant monies in accordance with the	
Cash Management Improvement Act of 1990 and 1992, and any other	
interest or penalties due to the federal government	
From General Revenue Fund.	\$400,000E
SECTION 5.235. — To the Office of Administration	
For the Division of Accounting	
For audit recovery distribution	
From General Revenue Fund.	\$50,000E
SECTION 5.240. — There is transferred out of the State Treasury,	
chargeable to the Budget Reserve Fund and Other Funds, such	
amounts as may be necessary for cash-flow assistance to various	
funds, provided, however, that funds other than the Budget	
Reserve Fund will not be used without prior notification to the	
Commissioner of the Office of Administration, the Chair of the	
Senate Appropriations Committee, and the Chair of the House	
Budget Committee. Cash-flow assistance from funds other than	
the Budget Reserve Fund shall only be transferred from May 15 to	
June 30 in any fiscal year, and an amount equal to the transfer	
received, plus interest, shall be transferred back to the	
appropriate Other Funds prior to June 30 of the fiscal year in	
which the transfer was made	
From Budget Reserve Fund and Other Funds to General Revenue Fund. . .	\$399,999,999E
From Budget Reserve Fund and Other Funds to Other Funds.	1E
Total.	\$400,000,000

SECTION 5.245.— There is transferred out of the State Treasury, such amounts as may be necessary for repayment of cash-flow assistance to the Budget Reserve Fund and Other Funds, provided, however, that the Commissioner of the Office of Administration, the Chair of the Senate Appropriations Committee, and the Chair of the House Budget Committee shall be notified when repayment to funds, other than the Budget Reserve Fund, has been made

From General Revenue Fund.....	\$325,000,000E
From Other Funds.	<u>75,000,000E</u>
Total.	\$400,000,000

SECTION 5.250.— There is transferred out of the State Treasury, such amounts as may be necessary for interest payments on cash-flow assistance, to the Budget Reserve Fund and Other Funds

From General Revenue Fund.....	\$3,000,000E
From Other Funds.	<u>1E</u>
Total.	\$3,000,001

SECTION 5.255.— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund.....	\$1E
From Budget Reserve Fund	<u>1E</u>
Total.	\$2

SECTION 5.260.— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund.....	\$1E
From Other Funds	<u>1E</u>
Total.	\$2

SECTION 5.265.— There is transferred out of the State Treasury, such amounts as may be necessary for the movement of cash between funds

From any fund except General Revenue Fund.....	\$1E
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SECTION 5.270.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the General Revenue Fund

From Healthy Families Trust Fund.....	\$47,197,540E
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SECTION 5.275.— There is transferred out of the State Treasury, chargeable to various funds such amounts as are necessary for allocation of costs to other funds in support of the state's central services performed by the Office of Administration, the Department of Revenue, the Capitol Police, the Elected Officials, and the General Assembly, to the General Revenue Fund

From Other Funds.	\$12,905,908E
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SECTION 5.280.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund, to the General Revenue Fund

From Office of Administration Revolving Administrative Trust Fund.	\$1E
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SECTION 5.285.— To the Office of Administration

For the Division of Accounting

For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri in accordance with the provisions of state law

From Federal Funds. \$865,000E

SECTION 5.290.— To the Office of Administration

For the Division of Accounting

For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the National Forest Reserve, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri

From Federal Funds. \$2,415,000E

SECTION 5.295.— To the Office of Administration

For the Division of Accounting

For payments to counties for county correctional prosecution reimbursements pursuant to Sections 50.850 and 50.853, RSMo

From General Revenue Fund. \$15,000E

SECTION 5.300.— To the Office of Administration

For the Commissioner's Office

For distribution of state grants to regional planning commissions and local governments as provided by Chapter 251, RSMo

From General Revenue Fund. \$300,000

SECTION 5.305.— To the Office of Administration

For funding transition costs for the Governor, Lieutenant Governor, Secretary of State, Treasurer, and Attorney General

From General Revenue Fund. \$150,000

SECTION 5.450.— To the Office of Administration

For transferring funds for all state employees and participating political subdivisions to the OASDHI Contributions Fund

From General Revenue Fund. \$84,047,436E

From Federal Funds 29,160,293E

From Other Funds. 46,540,282E

Total. \$159,748,011

SECTION 5.455.— For the Department of Public Safety

For transferring funds for employees of the State Highway Patrol to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund. \$6,818,228E

SECTION 5.460.— To the Office of Administration

For the Division of Accounting

For the payment of OASDHI taxes for all state employees and for

participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees
 From OASDHI Contributions Fund. \$166,566,239E

SECTION 5.465. — To the Office of Administration
 For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund
 From General Revenue Fund. \$173,004,456E
 From Federal Funds 51,851,670E
 From Other Funds. 45,561,204E
 Total. \$270,417,330E

SECTION 5.470. — To the Office of Administration
 For the Division of Accounting
 For payment of the state's contribution to the Missouri State Employees' Retirement System
 From State Retirement Contributions Fund. \$270,417,330E

SECTION 5.475. — To the Office of Administration
 For the Division of Accounting
 For payment of retirement benefits to the Public School Retirement System pursuant to Section 104.342, RSMo
 From General Revenue Fund. \$2,400,000E
 From Federal Funds 1,070,000E
 From Other Funds. 70,560E
 Total. \$3,540,560E

SECTION 5.480. — To the Office of Administration
 For transferring funds for all state employees who are qualified participants in the state Deferred Compensation Plan in accordance with Section 105.927, RSMo, and pursuant to Section 401(a) of the Internal Revenue Code to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund
 From General Revenue Fund. \$8,682,479E
 From Federal Funds 2,812,646E
 From Other Funds. 4,617,799E
 Total. \$16,112,924E

SECTION 5.485. — For the Department of Public Safety
 For transferring funds for the state's contribution to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund for employees of the State Highway Patrol, said transfers to be administered by the Office of Administration
 From State Highways and Transportation Department Fund. \$556,773E

SECTION 5.490.— To the Office of Administration

For the Division of Accounting

For the payment of funds credited by the state at a maximum rate of \$35
per month per qualified participant in accordance with Section
105.927, RSMo, to deferred compensation investment companies

From Missouri State Employees' Deferred Compensation Incentive Plan

Administration Fund. \$16,669,697E

SECTION 5.495.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account
for claims paid to former state employees for unemployment
insurance coverage and for related professional services

From General Revenue Fund. \$1,668,315E

From Federal Funds 488,664E

From Other Funds 1,704,763E

Total. \$3,861,742

SECTION 5.500.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account
for claims paid to former state employees of the Department of
Public Safety for unemployment insurance coverage and for
related professional services

From State Highways and Transportation Department Fund. \$169,942E

SECTION 5.505.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri

Consolidated Health Care Plan to the Missouri Consolidated
Health Care Plan Benefit Fund

From General Revenue Fund. \$235,279,555E

From Federal Funds 72,652,870E

From Other Funds. 45,522,286E

Total. \$353,454,711

SECTION 5.510.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri Consolidated
Health Care Plan provided that the target claims reserve amount
be set at or above twelve and one-half percent of annual self-
insured claims

From Missouri Consolidated Health Care Plan Benefit Fund. \$353,454,711

SECTION 5.515.— To the Office of Administration

For the Division of Accounting

For paying refunds for overpayment or erroneous payment of employee
withholding taxes

From General Revenue Fund. \$36,000E

SECTION 5.520.— To the Office of Administration

For the Division of Accounting

For providing voluntary life insurance

From the Missouri State Employees' Voluntary Life Insurance Fund. \$862,000E

SECTION 5.525.— To the Office of Administration

For the Division of Accounting

For employee medical expense reimbursements reserve

From General Revenue Fund. \$1E

SECTION 5.530.— To the Office of Administration

For the Division of Accounting

Personal Service for state payroll contingency

From General Revenue Fund. \$1E

SECTION 5.535.— To the Office of Administration

For the Division of General Services

For the provision of workers' compensation benefits to state
employees through either a self-insurance program administered
by the Office of Administration and/or by contractual agreement
with a private carrier and for administrative and legal expenses
authorized, in part, by Section 105.810, RSMo

From General Revenue Fund. \$19,823,401E

From Conservation Commission Fund. 500,000E

Total. \$20,323,401

SECTION 5.540.— There is hereby transferred out of the State

Treasury, chargeable to various funds, amounts paid from the

General Revenue Fund for workers' compensation benefits provided

to employees paid from these other funds, to the General Revenue Fund

From Federal Funds. \$2,591,703E

From Other Funds 3,470,043E

Total. \$6,061,746

SECTION 5.545.— To the Office of Administration

For the Division of General Services

For workers' compensation tax payments pursuant to Section 287.690, RSMo

From General Revenue Fund. \$1,465,000E

From Conservation Commission Fund. 60,000E

Total. \$1,525,000

OFFICE OF ADMINISTRATION TOTALS

General Revenue Fund. \$181,888,270

Federal Funds. 74,796,325

Other Funds. 64,650,184

Total. \$321,334,779

FRINGE BENEFITS TOTALS

General Revenue Fund. \$526,370,644

Federal Funds. 158,036,143

Other Funds. 152,983,837

Total. \$837,390,624

Approved June 27, 2008

HB 2006 [CCS SCS HCS HB 2006]

APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES, AND DEPARTMENT OF CONSERVATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 6.005.— To the Department of Agriculture

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	\$1,001,958
Annual salary adjustment in accordance with Section 105.005, RSMo	3,212
For refunds of erroneous receipts due to errors in application for licenses, registrations, permits, certificates, subscriptions, or other fees.	3,640E
From General Revenue Fund.	1,008,810

Personal Service.	144,279
Expense and Equipment.	34,750
From Federal Funds	179,029

For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the General Assembly provided that the General Assembly shall be notified of the source of any funds and the purpose for which they shall be expended, in writing, prior to the use of said funds

Personal Service and/or Expense and Equipment	
From Federal Funds and Other Funds.	1,207,275
Total (Not to exceed 21.00 F.T.E.).	\$2,395,114

SECTION 6.007.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the

General Revenue Fund, to the Veterinary Student Loan Payment Fund	
From General Revenue Fund.	\$120,000

SECTION 6.008.— To the Department of Agriculture

For the Large Animal Veterinary Student Loan Program

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund. \$36,004

For the purpose of providing large animal veterinary student loans in
accordance with the provisions of Sections 340.375 to 340.405, RSMo

From Veterinary Student Loan Payment Fund. 120,000

Total (Not to exceed 0.50 F.T.E.). \$156,004

SECTION 6.010.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Missouri Qualified Fuel Ethanol
Producer Incentive Fund

From General Revenue Fund. \$12,500,000

There is hereby transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Missouri Qualified Biodiesel
Producer Incentive Fund

From General Revenue Fund. 34,275,000

Total. \$46,775,000

SECTION 6.015.— To the Department of Agriculture

For Missouri Ethanol Producer Incentive Payments

From Missouri Qualified Fuel Ethanol Producer Incentive Fund. \$12,500,000

For Missouri Biodiesel Producer Incentive Payments

From Missouri Qualified Biodiesel Producer Incentive Fund. 34,275,000

Total. \$46,775,000

SECTION 6.020.— To the Department of Agriculture

For vehicle replacement

From Federal Funds. \$106,460

From Other Funds. 228,788

Total. \$335,248

SECTION 6.025.— To the Department of Agriculture

For the Agriculture Business Development Division

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$1,509,957

Personal Service. 149,548

Expense and Equipment 515,744

For the Agriculture Awareness Program. 24,910

For the Governor's Conference on Agriculture expenses. 125,000

From Federal Funds and Other Funds. 815,202

Total (Not to exceed 26.45 F.T.E.). \$2,325,159

SECTION 6.030.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the "Agri Missouri" Marketing Program
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$198,818

 Expense and Equipment
 From Other Funds. 10,000
 Total (Not to exceed 1.00 F.T.E.). \$208,818

SECTION 6.035.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the Wine and Grape Program
 Personal Service. \$166,360
 Expense and Equipment. 1,612,523
 From Other Funds (Not to exceed 3.00 F.T.E.). \$1,778,883

SECTION 6.040.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the purpose of funding grants for the Adult Agriculture Education Program
 From General Revenue Fund. \$400,000

SECTION 6.045.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the Agriculture and Small Business Development Authority
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment. \$86,178
 For the purpose of conducting a cellulosic ethanol feasibility study.. . . . 220,000
 From General Revenue Fund. 306,178

 Personal Service. 106,883
 Expense and Equipment. 21,379
 From Single-Purpose Animal Facilities Loan Program Fund. 128,262
 Total (Not to exceed 4.00 F.T.E.). \$434,440

SECTION 6.050.— To the Department of Agriculture
 There is hereby transferred out of the State Treasury, chargeable to
 the General Revenue Fund, to the Single-Purpose Animal
 Facilities Loan Guarantee Fund
 From General Revenue Fund. \$1E

SECTION 6.055.— To the Department of Agriculture
 For the purpose of funding loan guarantees as provided in Section
 348.190, RSMo and 348.200, RSMo
 From Single-Purpose Animal Facilities Loan Guarantee Fund. \$1E

SECTION 6.060.— To the Department of Agriculture
 There is hereby transferred out of the State Treasury, chargeable to
 the General Revenue Fund, to the Agricultural Product

Utilization and Business Development Loan Guarantee Fund
 From General Revenue Fund..... \$1E

SECTION 6.065.— To the Department of Agriculture
 For the purpose of funding loan guarantees as provided in Sections
 348.403, 348.408, and 348.409, RSMo
 From Agricultural Product Utilization and Business Development Loan
 Guarantee Fund..... \$1E

SECTION 6.070.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the Agriculture Development Program
 Personal Service. \$72,577
 Expense and Equipment 48,256
 For all monies in the Agriculture Development Fund for investments,
 reinvestments, and for emergency agricultural relief and
 rehabilitation as provided by law..... 100,000
 From Agriculture Development Fund (Not to exceed 1.60 F.T.E.). \$220,833

SECTION 6.075.— To the Department of Agriculture
 For the Division of Animal Health
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund..... \$2,583,011

 Personal Service. 625,988
 Expense and Equipment..... 934,604E
 From Federal Funds .. 1,560,592

 Personal Service. 207,324
 Expense and Equipment..... 411,602
 From Animal Health Laboratory Fee Fund 618,926

 Personal Service. 334,999
 Expense and Equipment..... 202,943
 From Animal Care Reserve Fund..... 537,942

To support local efforts to spay and neuter cats and dogs
 From Missouri Pet Spay/Neuter Fund 20,000

To support the Livestock Brands Program
 From Livestock Brands Fund 38,151

For enforcement activities related to the Livestock Dealer Law
 From Livestock Dealer Law Enforcement and Administration Fund. 12,250

For expenses incurred in regulating Missouri livestock markets
 From Livestock Sales and Markets Fees Fund 32,565

For processing livestock market bankruptcy claims
 From Agriculture Bond Trustee Fund 135,000

For the expenditures of contributions, gifts, and grants in support of relief efforts to reduce the suffering of abandoned animals	
From Institution Gift Trust Fund.	5,000
Total (Not to exceed 79.25 F.T.E.).	<u>\$5,543,437</u>

SECTION 6.080.— To the Department of Agriculture

For the Division of Animal Health

For funding indemnity payments and for indemnifying producers and owners of livestock and poultry for preventing the spread of disease during emergencies declared by the State Veterinarian, subject to the approval by the Department of Agriculture of a state match rate up to fifty percent (50%)	
From General Revenue Fund.	\$1E

SECTION 6.085.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$765,793

Personal Service.	35,021
Expense and Equipment.	<u>41,180</u>
From Federal Funds	76,201

Personal Service.	1,497,706
Expense and Equipment	282,047
Payment of Federal User Fee.	<u>100,000</u>
From Grain Inspection Fees Fund.	1,879,753

Personal Service.	57,103
Expense and Equipment.	<u>22,446</u>
From Commodity Council Merchandising Fund.	79,549
Total (Not to exceed 65.25 F.T.E.).	<u>\$2,801,296</u>

SECTION 6.090.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

For the Missouri Aquaculture Council

From Aquaculture Marketing Development Fund.	\$25,000E
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For refunds to individuals and reimbursements to commodity councils

From Commodity Council Merchandising Fund.	85,000E
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For research, promotion, and market development of apples

From Apple Merchandising Fund.	12,000E
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For the Missouri Wine Marketing and Research Council

From Missouri Wine Marketing and Research Development Fund.	<u>15,000E</u>
Total.	<u>\$137,000</u>

SECTION 6.095.— To the Department of Agriculture

For the Division of Plant Industries

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.....	\$1,868,227
Personal Service.	373,126
Expense and Equipment.....	<u>538,272</u>
From Federal Funds.	<u>911,398</u>
Total (Not to exceed 48.75 F.T.E.).....	\$2,779,625

SECTION 6.100.— To the Department of Agriculture
For the Division of Plant Industries

For the purpose of funding gypsy moth control, including education, research, and management activities, and for the receipt and disbursement of funds donated for gypsy moth control, including education, research, and management activities. Projects funded with donations, including those contributions made by supporting agencies and groups outside the Missouri Department of Agriculture, must receive prior approval from a steering committee composed of one member each from the Missouri departments of Agriculture, Conservation, Natural Resources, and Economic Development, the United States Department of Agriculture, the Missouri wood products industry, the University of Missouri, and other groups as deemed necessary by the Gypsy Moth Advisory Council, to be co-chaired by the departments of Agriculture and Conservation	
Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.....	\$54,193
From Federal Funds and Other Funds.....	<u>101,644</u>
Total (Not to exceed 2.00 F.T.E.).....	\$155,837

SECTION 6.105.— To the Department of Agriculture
For the Division of Plant Industries

For the purpose of funding boll weevil suppression and eradication	
Personal Service.	\$75,716
Expense and Equipment.....	<u>30,634</u>
From Boll Weevil Suppression and Eradication Fund (Not to exceed 2.00 F.T.E.).....	\$106,350

SECTION 6.110.— To the Department of Agriculture
For the Division of Weights and Measures

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.....	\$1,400,126
Personal Service.	35,946
Expense and Equipment.....	<u>50,000</u>
From Federal Funds and Other Funds.....	85,946

Personal Service.	1,394,065
Expense and Equipment.	<u>764,746</u>
From Petroleum Inspection Fund.	<u>2,158,811</u>
Total (Not to exceed 71.00 F.T.E.).	\$3,644,883

SECTION 6.115.— To the Department of Agriculture

For the Missouri State Fair

Personal Service

From General Revenue Fund.	\$567,580
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Personal Service.	1,314,071
Expense and Equipment.	<u>2,866,825</u>
From State Fair Fees Fund.	<u>4,180,896</u>
Total (Not to exceed 61.75 F.T.E.).	\$4,748,476

SECTION 6.120.— To the Department of Agriculture

For cash to start the Missouri State Fair

Expense and Equipment

From State Fair Fees Fund.	\$75,000
From State Fair Trust Fund.	<u>10,000</u>
Total.	\$85,000

SECTION 6.125.— To the Department of Agriculture

For the Missouri State Fair

For equipment replacement

Expense and Equipment

From State Fair Fees Fund.	\$166,062
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SECTION 6.130.— To the Department of Agriculture

For the Missouri State Fair

For the Aid-to-Fairs Premiums Program for youth participants in
county, local, and district fairs

From Other Funds.	\$1E
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SECTION 6.135.— To the Department of Agriculture

For the State Milk Board

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	\$128,427
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Personal Service and/or Expense and Equipment

From Milk Inspection Fees Fund	1,467,669
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Expense and Equipment

From State Contracted Manufacturing Dairy Plant Inspection and

Grading Fee Fund.	<u>8,000</u>
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Total (Not to exceed 13.00 F.T.E.).	\$1,604,096
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SECTION 6.200.— To the Department of Natural Resources

For department operations, administration, and support

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed between
 personal service and expense and equipment. \$978,980
 Annual salary adjustment in accordance with Section 105.005, RSMo. 593
 From General Revenue Fund. 979,573

Personal Service. 3,607,038
 Annual salary adjustment in accordance with Section 105.005, RSMo 2,526
 Expense and Equipment. 1,038,329
 From Federal Funds and Other Funds 4,647,893

For Contractual Audits
 From Federal Funds and Other Funds. 100,000E
 Total (Not to exceed 94.19 F.T.E.). \$5,727,466

SECTION 6.205.— To the Department of Natural Resources

For the Energy Center
 Personal Service. \$1,143,768
 Expense and Equipment. 220,805
 From Federal Funds and Other Funds (Not to exceed 24.00 F.T.E.). \$1,364,573

Section 6.210.— To the Department of Natural Resources

For the purpose of funding the promotion of energy, renewable energy,
 and energy efficiency
 From Utilicare Stabilization Fund. \$100E
 From Federal Funds and Other Funds 8,311,474E
 Total. \$8,311,574

SECTION 6.215.— To the Department of Natural Resources

For the Division of Environmental Quality, the Field Services
 Division, the Division of Geology and Land Survey, and the Water
 Resources Center, provided that not more than thirty percent
 (30%) flexibility is allowed between divisions and/or centers
 listed in this section
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$10,909,906

Personal Service. 32,878,822
 Expense and Equipment. 11,978,100
 From Federal Funds and Other Funds. 44,856,922
 Total (Not to exceed 927.57 F.T.E.). \$55,766,828

SECTION 6.220.— To the Department of Natural Resources

There is hereby transferred out of the State Treasury, chargeable to
 the General Revenue Fund, to the Missouri Water Development Fund
 From General Revenue Fund. \$475,000

SECTION 6.225.— To the Department of Natural Resources

For the payment of interest, operations, and maintenance in
 accordance with the Cannon Water Contract
 From Missouri Water Development Fund. \$475,000

SECTION 6.230.— To the Department of Natural Resources

For demonstration projects and technical assistance related to soil
and water conservation

From Federal Funds. \$100,000

For grants to local soil and water conservation districts. 9,405,074E

For soil and water conservation cost-share grants. 20,451,832E

For a loan interest-share program. 300,000E

For a special area land treatment program. 6,896,200E

For grants to colleges and universities for research projects on soil erosion
and conservation. 75,000E

From Soil and Water Sales Tax Fund. 37,128,106

Total. \$37,228,106

SECTION 6.235.— To the Department of Natural Resources

For contracts for the analysis of hazardous waste samples

From Federal Funds. \$100,000

From Hazardous Waste Fund. 60,210

For the environmental emergency response system

From Other Funds 30,000E

From Federal Funds 250,000

For emergency response loans in accordance with Section 260.546, RSMo

From Hazardous Waste Fund. 150,000

For cleanup of controlled substances

From Federal Funds 124,999E

Total. \$715,209

SECTION 6.240.— To the Department of Natural Resources

For the state's share of construction grants

From Water Pollution Control Fund. \$3,000,000E

For loans pursuant to Sections 644.026-644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater

Loan Revolving Fund 60,000,000E

For rural sewer and water grants and loans

From Water Pollution Control Fund and/or Rural Water and Sewer

Loan Revolving Fund 20,660,000E

For stormwater control grants or loans

From Water Pollution Control Fund, Stormwater Control Fund,

and/or Stormwater Loan Revolving Fund 20,000,000E

For loans for drinking water systems pursuant to Sections 644.026-
644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater

Loan Revolving Fund. 14,000,000E

Total. \$117,660,000

SECTION 6.245.— To the Department of Natural Resources

For grants and contracts to study or reduce water pollution, improve
ground water and/or surface water quality, for grants to
colleges for wastewater operator training, and for grants for
lake restoration

From Federal Funds. \$9,444,925E
From Natural Resources Protection Fund-Water Pollution Permit Fee
Subaccount. 50,000

For drinking water sampling, analysis, and public drinking water
quality and treatment studies

From Safe Drinking Water Fund. 600,000E
Total. \$10,094,925

SECTION 6.250.— To the Department of Natural Resources

For closure of concentrated animal feeding operations

From Concentrated Animal Feeding Operation Indemnity Fund. \$100,000

SECTION 6.255.— To the Department of Natural Resources

For grants and contracts to local air pollution control agencies and
to organizations for air pollution

From Federal Funds and Other Funds.. . . . \$3,436,300E

For asbestos grants and contracts to local air pollution control agencies

From Natural Resources Protection Fund-Air Pollution Asbestos Fee

Subaccount. 75,000E
Total. \$3,511,300

SECTION 6.260.— To the Department of Natural Resources

There is hereby transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Hazardous Waste Fund

From General Revenue Fund.. . . . \$688,575

SECTION 6.265.— To the Department of Natural Resources

For the cleanup of leaking underground storage tanks

From Federal Funds. \$420,000

For the cleanup of hazardous waste sites

From Federal Funds and Other Funds 975,000E
From Hazardous Waste Fund. 21,274E
From Dry-cleaning Environmental Response Trust Fund. 200,000E
Total. \$1,616,274

SECTION 6.270.— To the Department of Natural Resources

For implementation provisions of the Solid Waste Management Law in
accordance with Sections 260.250, RSMo, through 260.345, RSMo

From Solid Waste Management Fund. \$6,300,000E
From Solid Waste Management Fund-Scrap Tire Subaccount 1,636,999E
Total. \$7,936,999

SECTION 6.275.— To the Department of Natural Resources

For funding expenditures of forfeited financial assurance instruments

to ensure proper closure and post closure of solid waste landfills, with General Revenue Fund expenditures not to exceed collections pursuant to Section 260.228, RSMo	
From General Revenue Fund.	\$17,304E
From Post Closure Fund	<u>141,599E</u>
Total.	\$158,903

SECTION 6.280.— To the Department of Natural Resources
For the receipt and expenditure of bond forfeiture funds for the
reclamation of mined land
From Mined Land Reclamation Fund. \$1,400,000

For the reclamation of mined lands under the provisions of Section
444.960, RSMo
From Coal Mine Land Reclamation Fund 850,000

For the reclamation of abandoned mined lands
From Federal Funds 1,750,000

For contracts for hydrologic studies to assist small coal operators
to meet permit requirements
From Federal Funds. 50,000
Total. \$4,050,000

SECTION 6.285.— To the Department of Natural Resources
For expenditures of payments received for damages to the state's
natural resources
From Natural Resources Protection Fund-Damages Subaccount or Natural
Resources Protection Fund-Water Pollution Permit Fee Subaccount. \$269,711E

SECTION 6.290.— To the Department of Natural Resources
For funding environmental education, demonstration projects, and
technical assistance grants
From Federal Funds and Other Funds. \$125,000E

SECTION 6.295.— To the Department of Natural Resources
For the purpose of funding a motor vehicle emissions program
Personal Service. \$618,758
Expense and Equipment. 713,658
From Federal Funds and Other Funds (Not to exceed 17.02 F.T.E.). \$1,332,416

SECTION 6.300.— To the Department of Natural Resources
For the Board of Trustees for the Petroleum Storage Tank Insurance Fund
For the general administration and operation of the fund
Personal Service. \$190,351
Expense and Equipment 2,101,000
For the purpose of investigating and paying claims obligations of the
Petroleum Storage Tank Insurance Fund 19,990,000E
For the purpose of funding the refunds of erroneously collected receipts. . . . 10,000E
From Petroleum Storage Tank Insurance Fund (Not to exceed 2.00 F.T.E.). . . \$22,291,351

SECTION 6.305.— To the Department of Natural Resources
For the petroleum related activities and environmental emergency response

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment
 From Petroleum Storage Tank Insurance Fund (Not to exceed 16.20 F.T.E.). . . \$1,089,688

SECTION 6.310.— To the Department of Natural Resources
 For expenditures in accordance with the provisions of Section 259.190, RSMo
 From Oil and Gas Remedial Fund. \$23,000E

SECTION 6.315.— To the Department of Natural Resources
 For the Division of Geology and Land Survey
 For surveying corners and for records restorations
 From Federal Funds and Other Funds.. . . . \$240,000

SECTION 6.320.— To the Department of Natural Resources
 For the Division of State Parks
 For field operations, administration, and support
 Personal Service. \$23,208,708
 Expense and Equipment.. . . . 12,080,984
 From Federal Funds and Other Funds 35,289,692

For payments to levee districts
 From Parks Sales Tax Fund.. . . . 1E
 Total (Not to exceed 714.71 F.T.E.). \$35,289,693

SECTION 6.330.— To the Department of Natural Resources
 For the Division of State Parks
 For the Bruce R. Watkins Cultural Heritage Center
 From Parks Sales Tax Fund.. . . . \$100,000

SECTION 6.335.— To the Department of Natural Resources
 For the Division of State Parks
 For the payment to counties in lieu of real property taxes, as appropriate, on lands acquired by the department after July 1, 1985, for park purposes and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri
 From Parks Sales Tax Fund.. . . . \$25,875E

SECTION 6.340.— To the Department of Natural Resources
 For the Division of State Parks
 For parks and historic sites
 For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the approval of the chairperson or designee of both Senate Appropriations and House Budget committees
 From State Park Earnings Fund. \$72,390E

SECTION 6.345.— To the Department of Natural Resources
 For the Division of State Parks

For the purchase of publications, souvenirs, and other items for
 resale at state parks and state historic sites
 Expense and Equipment
 From State Park Earnings Fund. \$500,000E

SECTION 6.350.— To the Department of Natural Resources
 For the Division of State Parks
 For all expenses incurred in the operation of state park concession
 projects or facilities when such operations are assumed by the
 Department of Natural Resources
 From State Park Earnings Fund. \$200,000E

SECTION 6.355.— To the Department of Natural Resources
 For the Division of State Parks
 For the expenditure of grants to state parks
 From Federal Funds and Other Funds. \$350,000

SECTION 6.360.— To the Department of Natural Resources
 For the Division of State Parks
 For Administration and Support
 For grants-in-aid from the Land and Water Conservation Fund and other
 funds to state agencies and political subdivisions for outdoor
 recreation projects
 From Federal Funds. \$2,324,034E

SECTION 6.365.— To the Department of Natural Resources
 For Historic Preservation Operations
 Personal Service. \$670,271
 Expense and Equipment. 107,351
 From Federal Funds and Other Funds (Not to exceed 17.25 F.T.E.). \$777,622

Section 6.370.— To the Department of Natural Resources
 There is hereby transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Historic Preservation Revolving Fund
 From General Revenue Fund. \$1,800,000

SECTION 6.375.— To the Department of Natural Resources
 For historic preservation grants and contracts
 From Federal Funds and Other Funds. \$1,909,743

SECTION 6.380.— To the Department of Natural Resources
 For the purpose of funding Civil War commemoration expenses
 From General Revenue Fund. \$250,000
 From Federal Funds. 1E
 Total. \$250,001

SECTION 6.385.— To the Department of Natural Resources
 For agency-wide operations
 For Homeland Security Grants
 For all costs related to Homeland Security initiatives
 From Federal Funds (Not to exceed 1.00 F.T.E.). \$415,638

SECTION 6.390.— To the Department of Natural Resources
 For incentives related to Jobs Now Projects approved by the
 Department of Natural Resources and the Office of Administration
 From Federal Funds and Other Funds.. . . . \$1,000E

SECTION 6.395.— To the Department of Natural Resources
 For revolving services
 Expense and Equipment
 From Natural Resources Revolving Services Fund. \$3,126,244

SECTION 6.400.— To the Department of Natural Resources
 For the purpose of funding the refund of erroneously collected receipts
 From Federal Funds and Other Funds.. . . . \$250,000E

SECTION 6.405.— To the Department of Natural Resources
 For sales tax on retail sales
 From Federal Funds and Other Funds.. . . . \$235,000E

SECTION 6.410.— There is hereby transferred out of the State Treasury
 to the Department of Natural Resources Cost Allocation Fund
 From Federal Funds and Other Funds.. . . . \$8,182,685

SECTION 6.415.— There is hereby transferred out of the State Treasury
 to the Department of Natural Resources Cost Allocation Fund for real
 property leases, related services, utilities, systems furniture, structural
 modifications, capital improvements and the related expenses
 From Federal Funds and Other Funds.. . . . \$1,957,749

SECTION 6.420.— There is hereby transferred out of the State Treasury
 to the Department of Natural Resources Cost Allocation Fund for the
 purpose of funding the consolidation of Information Technology Services
 From Federal Funds and Other Funds.. . . . \$8,456,960

SECTION 6.425.— There is hereby transferred out of the State Treasury to
 the OA Information Technology Federal and Other Fund for the purpose
 of funding the consolidation of Information Technology Services
 From Federal Funds. \$2,788,018

SECTION 6.430.— To the Department of Natural Resources
 For minority and under-represented student scholarships
 From General Revenue Fund.. . . . \$32,964
 From Recruitment and Retention Scholarship Fund. 50,000
 Total. \$82,964

SECTION 6.435.— To the Department of Natural Resources
 For the State Environmental Improvement and Energy Resources Authority
 For all costs incurred in the operation of the authority, including special studies
 From State Environmental Improvement and Energy Resources Authority Fund. \$1E

SECTION 6.600.— To the Department of Conservation
 For Personal Service and Expense and Equipment, including refunds;
 and for payments to counties for the unimproved value of land in

lieu of property taxes for privately owned lands acquired by the
 Conservation Commission after July 1, 1977, and for lands
 classified as forest croplands
 From Conservation Commission Fund (Not to exceed 1,871.61 F.T.E.). . . . \$145,534,841

DEPARTMENT OF AGRICULTURE TOTALS

General Revenue Fund. \$57,718,487
 Federal Funds. 4,614,629
 Other Funds. 14,379,809
 Total. \$76,712,925

DEPARTMENT OF NATURAL RESOURCES TOTALS

General Revenue Fund. \$15,153,322
 Federal Funds. 42,541,044
 Other Funds. 270,532,637
 Total. \$328,227,003

DEPARTMENT OF CONSERVATION TOTALS

Other Funds Total. \$145,534,841

Approved June 27, 2008

HB 2007 [CCS SCS HCS HB 2007]

APPROPRIATIONS: DEPARTMENT OF ECONOMIC DEVELOPMENT; DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION; AND DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, Financial Institutions and Professional Registration, and Department of Labor and Industrial Relations and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 7.005.— To the Department of Economic Development

For general administration of Administrative Services

Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed

between personal service and expense and equipment. \$556,747

Annual salary adjustment in accordance with Section 105.005, RSMo. 873

From General Revenue Fund. 557,620

Personal Service.	1,169,832
Annual salary adjustment in accordance with Section 105.005, RSMo	1,808
Expense and Equipment.	<u>463,035</u>
From Federal Funds	1,634,675

Personal Service.	572,099
Annual salary adjustment in accordance with Section 105.005, RSMo	437
Expense and Equipment	651,292
For refunds.	<u>5,000E</u>
From Department of Economic Development Administrative Fund.	<u>1,228,828</u>
Total (Not to exceed 40.81 F.T.E.).	\$3,421,123

SECTION 7.010.— Funds are to be transferred, for payment of
administrative costs, the following amounts to the Department of
Economic Development Administrative Fund

From Federal Funds.	\$247,990E
From Division of Tourism Supplemental Revenue Fund	159,347E
From Manufactured Housing Fund	11,065E
From Public Service Commission Fund.	<u>208,224E</u>
Total.	\$626,626

SECTION 7.015.— To the Department of Economic Development

For the Division of Business and Community Services

For the Missouri Economic Research and Information Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	\$217,440
From Federal Funds	1,974,283

For the Marketing Team

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	1,419,709
From Federal Funds	196,027
From Department of Economic Development Administrative Fund.	42,680
From International Promotions Revolving Fund	72,238E
From Economic Development Advancement Fund	2,500,000

For the Sales Team

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	1,177,519
From Federal Funds	95,309
From Department of Economic Development Administrative Fund.	6,620
From Economic Development Advancement Fund	236,696

For the Finance Team

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	726,806
From Federal Funds	321,402
From Economic Development Advancement Fund	118,348

For the Compliance Team

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	219,590
From Federal Funds	548,976
From Economic Development Advancement Fund.	59,174
Total (Not to exceed 119.84 F.T.E.).	\$9,932,817

SECTION 7.020.— To the Department of Economic Development

For the Life Sciences Research Board for distribution of grants and contract awards to Missouri public and private not-for-profit institutions to fund projects related to increasing Missouri's research capacity, as provided in Sections 196.1100 through 196.1130, RSMo. The Life Sciences Research Board shall submit to the Chairman of the Senate Appropriations Committee and the Chairman of the House Budget Committee an annual report containing, at a minimum: a description of each grant awarded, the amount of the grant, the amount disbursed to each grant recipient, and an accounting of all administrative expenses in the period from July 1, 2007 to June 30, 2008; a spending plan for the period from July 1, 2008 to June 30, 2009 detailing all expenses of the Life Sciences Research Board no later than December 31, 2008. This annual report shall be in addition to the financial audit required in Section 196.1118, RSMo. Not more than two percent of the difference between this appropriation and the unexpended appropriation amount from the previous fiscal year may be used for administrative expenses. These funds shall be used exclusively on animal science, plant science, medical devices, biomaterials and composite research, diagnostics, nanotechnology related to drug development and delivery, clinical imaging, and information technology related to human health

From Life Sciences Research Trust Fund.	\$21,000,000
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SECTION 7.025.— To the Department of Economic Development

For Innovation Centers

For Rolla Innovation Center.	\$225,056
For Southeast Missouri Innovation Center	225,000
For St. Louis Innovation Center.	500,000
For Kirksville Innovation Center	25,000
For Joplin Innovation Center	275,000
For Columbia Innovation Center	250,750
For Springfield Innovation Center.	150,000
For Kansas City Innovation Center.	150,000
For Warrensburg Innovation Center.	150,000
For St. Joseph Innovation Center.	100,000
From Missouri Technology Investment Fund	2,050,806

For the Missouri Technology Corporation and Research Alliance of Missouri
Personal Service

From Missouri Technology Investment Fund 127,308
For the purpose of funding the Missouri Power Resource Center
From Missouri Technology Investment Fund 150,000

For Missouri Manufacturing Extension Partnership
All Expenditures

From Federal Funds 1E
From Private Contributions 1E
From Missouri Technology Investment Fund. 2,052,089
Total (Not to exceed 1.00 F.T.E.) \$4,380,205

SECTION 7.030.— Funds are to be transferred out of the State
Treasury, chargeable to the General Revenue Fund, to the
Missouri Technology Investment Fund, for the Missouri
Manufacturing Extension Partnership, Innovation Centers,
Missouri Technology Corporation/Research Alliance of Missouri,
and other technology investments

From General Revenue Fund. \$4,429,999

SECTION 7.035.— To the Department of Economic Development
For the Missouri Federal and State Technology Partnership Program

From Missouri Small Business Development Centers Fund. \$500,000

SECTION 7.040.— Funds are to be transferred out of the State
Treasury, chargeable to the General Revenue Fund, to the
Missouri Small Business Development Centers Fund

From General Revenue Fund. \$500,000

SECTION 7.045.— To the Department of Economic Development
For the Division of Business and Community Services

For the Business Extension and Services Program

From Business Extension Service Team Fund. \$1,000,000

SECTION 7.050.— To the Department of Economic Development
For the Division of Business and Community Services

For Community Development Programs

From Federal Funds. \$28,000,000E

SECTION 7.055.— To the Department of Economic Development
For the Division of Business and Community Services

For the Missouri Main Street Program

From Missouri Main Street Program Fund. \$45,590

SECTION 7.060.— Funds are to be transferred out of the State
Treasury, chargeable to the General Revenue Fund, to the
Missouri Main Street Program Fund

From General Revenue Fund. \$45,000

SECTION 7.065.— To the Department of Economic Development
For the Division of Business and Community Services

For the Youth Opportunities and Violence Prevention Program
 From Youth Opportunities and Violence Prevention Fund \$1E

SECTION 7.070.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Delta Regional Authority, provided that funds may be expended only
 if federal funds are appropriated to the authority pursuant to the
 Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.)
 From General Revenue Fund. \$86,000

SECTION 7.075.— To the Department of Economic Development
 For Missouri supplemental tax increment financing as provided in
 Section 99.845, RSMo. This appropriation may be used for the
 following projects: Kansas City Midtown, Independence Santa Fe
 Trail Neighborhood, St. Louis City Convention Hotel, Cupples
 Station, Springfield Jordan Valley Park, Kansas City Bannister
 Mall/Three Trails, St. Louis Lambert Airport Eastern Perimeter,
 Old Post Office in Kansas City, 1200 Main Garage Project in
 Kansas City, Riverside Levee, Branson Landing, Eastern Jackson
 County Bass Pro, and Kansas City East Village Project. The
 presence of a project in this list is not an indication said
 project is nor shall be approved for tax increment financing.
 A listed project must have completed the application process and
 a certificate of approval must have been issued pursuant to
 Section 99.845 (10) before a project may be disbursed funds
 subject to the appropriation
 From Missouri Supplemental Tax Increment Financing Fund. \$10,086,123

SECTION 7.080.— Funds are to be transferred out of the State
 Treasury, chargeable to the General Revenue Fund, to the
 Missouri Supplemental Tax Increment Financing Fund
 From General Revenue Fund. \$10,086,123

SECTION 7.085.— To the Department of Economic Development
 For the Missouri Downtown Economic Stimulus Act as provided in
 Sections 99.915 to 99.980, RSMo
 From State Supplemental Downtown Development Fund. \$3,146,400

SECTION 7.090.— To the Department of Economic Development
 For the Downtown Revitalization Preservation Program as provided in
 Sections 99.1080 to 99.1092, RSMo
 From Downtown Revitalization Preservation Fund. \$100,000

SECTION 7.095.— To the Department of Economic Development
 For the Missouri Rural Economic Stimulus Act as provided in
 Sections 99.1000 to 99.1060, RSMo
 From State Supplemental Rural Development Fund. \$1E

SECTION 7.100.— Funds are to be transferred out of the State
 Treasury, chargeable to the State Supplemental Downtown
 Development Fund, to the General Revenue Fund
 From State Supplemental Downtown Development Fund. \$1E

SECTION 7.105.— Funds are to be transferred out of the State
 Treasury, chargeable to the State Supplemental Rural Development
 Fund, to the General Revenue Fund
 From State Supplemental Rural Development Fund..... \$1E

SECTION 7.110.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Missouri Community Service Commission
 Personal Service
 From General Revenue Fund..... \$41,021

Personal Service. 188,163
 Expense and Equipment..... 2,793,562E
 From Federal Funds. 2,981,725
 Total (Not to exceed 5.00 F.T.E.)..... \$3,022,746

SECTION 7.115.— To the Department of Economic Development
 For the Missouri State Council on the Arts
 Expense and Equipment
 From General Revenue Fund..... \$500,000

Personal Service. 293,187
 Expense and Equipment..... 394,699
 From Federal Funds 687,886

Personal Service. 462,100
 Expense and Equipment..... 8,350,014
 From Missouri Arts Council Trust Fund..... 8,812,114

For Public Television Grants
 For grants to public television stations as provided in Section
 185.200 through 185.230, RSMo
 From General Revenue Fund..... 95,000

For grants to public television and radio stations as provided in
 Section 143.183, RSMo
 From Missouri Public Broadcasting Corporation Special Fund 1,800,000

For the Missouri Humanities Council
 From Missouri Humanities Council Trust Fund..... 250,000
 Total (Not to exceed 15.00 F.T.E.)..... \$12,145,000

SECTION 7.120.— Funds are to be transferred out of the State
 Treasury, chargeable to the General Revenue Fund, to the
 Missouri Arts Council Trust Fund as authorized by Sections
 143.183 and 185.100, RSMo
 From General Revenue Fund..... \$10,800,000

Section 7.125.— Funds are to be transferred out of the State
 Treasury, chargeable to the General Revenue Fund, to the
 Missouri Humanities Council Trust Fund as authorized by Sections
 143.183 and 186.065, RSMo

From General Revenue Fund. \$1,800,000

SECTION 7.130.— Funds are to be transferred out of the State

Treasury, chargeable to the General Revenue Fund, to the
Missouri Public Broadcasting Corporation Special Fund as
authorized by Section 143.183, RSMo

From General Revenue Fund. \$1,800,000

SECTION 7.135.— To the Department of Economic Development

For the Division of Workforce Development

For general administration of Workforce Development activities

Personal Service. \$21,397,398E

Expense and Equipment. 3,042,037E

From Federal Funds 24,439,435

Personal Service. 197,290

Expense and Equipment. 18,955

From Child Support Enforcement Collections Fund. 216,245

Personal Service. 371,707

Expense and Equipment. 81,389

From Missouri Job Development Fund 453,096

For the Guard at Home Program

From Guard at Home Fund. 350,000

For the purpose of providing research funding to create an innovative
model for specific persons with autism through a contract with
a Southeast Missouri not-for-profit organization concentrating
on workforce transition skills related to the maximization of
giftedness within the autistic population

From General Revenue Fund. 200,000

Total (Not to exceed 539.72 F.T.E.). \$25,658,776

SECTION 7.140.— Funds are to be transferred out of the State

Treasury, chargeable to Federal Funds, to the Guard at Home Fund

From Federal Funds. \$350,000

SECTION 7.145.— To the Department of Economic Development

For job training and related activities

From General Revenue Fund. \$1,978,912

From Federal Funds and Other Funds 100,066,171

For administration of programs authorized and funded by the United
States Department of Labor, such as Trade Adjustment Assistance
(TAA), and provided that all funds shall be expended from
discrete accounts and that no monies shall be expended for
funding administration of these programs by the Division of
Workforce Development

From Federal Funds. 7,000,000E

Total. \$109,045,083

SECTION 7.150.— To the Department of Economic Development
For funding new and expanding industry training programs and basic
industry retraining programs
From Missouri Job Development Fund. \$10,640,835E

SECTION 7.155.— Funds are to be transferred out of the State
Treasury, chargeable to the General Revenue Fund, to the
Missouri Job Development Fund
From General Revenue Fund. \$11,083,939

SECTION 7.160.— To the Department of Economic Development
For the Missouri Community College New Jobs Training Program
For funding training of workers by community college districts
From Missouri Community College Job Training Program Fund. \$16,000,000E

SECTION 7.165.— To the Department of Economic Development
For the Jobs Retention Program
From Missouri Community College Job Retention Training Program Fund. . . \$10,000,000

SECTION 7.170.— To the Department of Economic Development
For the Missouri Women's Council
Personal Service. \$55,167
Expense and Equipment. 16,502
From Federal Funds (Not to exceed 1.00 F.T.E.). \$71,669

SECTION 7.175.— To the Department of Economic Development
For the purchase, lease, and renovation of buildings, land, and
erection of buildings
From Special Employment Security Fund. \$216,000

SECTION 7.180.— To the Department of Economic Development
For the Division of Tourism, to include coordination of advertising
of at least \$70,000 for the Missouri State Fair
Personal Service. \$1,614,386
Expense and Equipment. 22,552,580
From Division of Tourism Supplemental Revenue Fund 24,166,966

Expense and Equipment
From Tourism Marketing Fund. 15,000
Total (Not to exceed 41.00 F.T.E.). \$24,181,966

SECTION 7.185.— Funds are to be transferred out of the State
Treasury, chargeable to the General Revenue Fund, to the
Division of Tourism Supplemental Revenue Fund
From General Revenue Fund. \$23,659,810

SECTION 7.187.— To the Department of Economic Development
For the Office of the Film Commission
Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund (Not to exceed 2.00 F.T.E.). \$250,000

SECTION 7.190.— To the Department of Economic Development
 For the Missouri Housing Development Commission
 For general administration of Affordable Housing activities
 For funding housing subsidy grants or loans
 From Missouri Housing Trust Fund. \$4,450,000E

SECTION 7.195.— To the Department of Economic Development
 For Manufactured Housing
 Personal Service. \$341,404
 Expense and Equipment 145,089
 For Manufactured Housing programs. 7,935E
 For refunds. 10,000E
 From Manufactured Housing Fund (Not to exceed 7.50 F.T.E.). \$504,428

SECTION 7.200.— To the Department of Economic Development
 For the Office of the Public Counsel
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 12.00 F.T.E.). \$880,809

SECTION 7.205.— To the Department of Economic Development
 For the Public Service Commission
 For general administration of Utility Regulation activities
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment. \$12,861,809
 Annual salary adjustment in accordance with Section 105.005, RSMo 15,300
 For the development of a rule regarding ethics, conduct and conflict
 of interest, including training for the commission and staff, in
 consultation with a professional legal organization with
 expertise in the development and training in such codes 100,000
 For Refunds. 10,000E
 From Public Service Commission Fund. 12,987,109

For the Deaf Relay Service and Equipment Distribution Program
 From Deaf Relay Service and Equipment Distribution Program Fund. 5,000,000
 Total (Not to exceed 193.00 F.T.E.). \$17,987,109

SECTION 7.400.— To the Department of Insurance, Financial
 Institutions and Professional Registration
 Personal Service. \$153,121
 Expense and Equipment. 42,157
 From Department of Insurance, Financial Institutions and Professional
 Registration Administrative Fund (Not to exceed 5.00 F.T.E.). \$195,278

SECTION 7.405.— Funds are to be transferred for administrative
 services, the following amounts to the Department of Insurance,
 Financial Institutions and Professional Registration Administrative Fund
 From Division of Credit Unions Fund. \$11,829E
 From Division of Finance Fund. 73,314E
 From Insurance Dedicated Fund. 1E

From Professional Registration Fees Fund	172,007E
Total.	\$257,151

SECTION 7.410.— To the Department of Insurance, Financial
Institutions and Professional Registration

For Insurance Operations	
Personal Service.	\$6,322,958
Expense and Equipment.	1,883,003
From Insurance Dedicated Fund.	8,205,961

For consumer restitution payments	
From Consumer Restitution Fund.	1E
Total (Not to exceed 148.00 F.T.E.).	\$8,205,962

SECTION 7.415.— To the Department of Insurance, Financial
Institutions and Professional Registration

For market conduct and financial examinations of insurance companies	
Personal Service.	\$4,187,322
Expense and Equipment.	1,094,776
From Insurance Examiners Fund (Not to exceed 53.50 F.T.E.).	\$5,282,098

SECTION 7.420.— To the Department of Insurance, Financial
Institutions and Professional Registration

For refunds	
From Insurance Examiners Fund.	\$1E
From Insurance Dedicated Fund.	75,000E
Total.	\$75,001

SECTION 7.425.— To the Department of Insurance, Financial
Institutions and Professional Registration

For the purpose of funding programs providing counseling on health insurance coverage and benefits to Medicare beneficiaries	
From Federal Funds.	\$700,000E
From Insurance Dedicated Fund.	200,000
Total.	\$900,000

SECTION 7.430.— To the Department of Insurance, Financial
Institutions and Professional Registration

For the Division of Credit Unions	
Personal Service.	\$1,144,721
Expense and Equipment.	123,775
From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.).	\$1,268,496

SECTION 7.435.— To the Department of Insurance, Financial
Institutions and Professional Registration

For the Division of Finance	
Personal Service.	\$5,799,996
Expense and Equipment	749,838
For Out-of-State Examinations.	50,000E
From Division of Finance Fund (Not to exceed 95.15 F.T.E.).	\$6,599,834

SECTION 7.440.— Funds are to be transferred out of the Division of
Savings and Loan Supervision Fund to the Division of Finance

Fund for the purpose of supervising state chartered savings and
loan associations
From Division of Savings and Loan Supervision Fund. \$39,400E

SECTION 7.445.— Funds are to be transferred out of the Residential
Mortgage Licensing Fund to the Division of Finance Fund for the
purpose of administering the Residential Mortgage Licensing Law
From Residential Mortgage Licensing Fund. \$150,000E

SECTION 7.450.— Funds are to be transferred out of the Division of
Savings and Loan Supervision Fund to the General Revenue Fund in
accordance with Section 369.324, RSMo
From Division of Savings and Loan Supervision Fund. \$6,909E

SECTION 7.455.— Funds are to be transferred out of the Division of
Finance Fund to the General Revenue Fund in accordance with
Section 361.170, RSMo
From Division of Finance Fund. \$500,000E

SECTION 7.460.— To the Department of Insurance, Financial
Institutions and Professional Registration
For general administration of the Division of Professional Registration
Personal Service. \$3,106,498
Expense and Equipment 1,065,304
For examination and other fees 88,000E
For refunds. 35,000E
From Professional Registration Fees Fund (Not to exceed 79.50 F.T.E.). \$4,294,802

SECTION 7.465.— To the Department of Insurance, Financial
Institutions and Professional Registration
For the State Board of Accountancy
Personal Service. \$278,953
Expense and Equipment. 180,647
From Board of Accountancy Fund (Not to exceed 7.00 F.T.E.). \$459,600

SECTION 7.470.— To the Department of Insurance, Financial
Institutions and Professional Registration
For the State Board of Architects, Professional Engineers, Land
Surveyors, and Landscape Architects
Personal Service. \$375,856
Expense and Equipment. 394,587
From Board of Architects, Professional Engineers, Land Surveyors,
and Landscape Architects Fund (Not to exceed 10.00 F.T.E.). \$770,443

SECTION 7.475.— To the Department of Insurance, Financial
Institutions and Professional Registration
For the State Board of Chiropractic Examiners
Expense and Equipment
From Board of Chiropractic Examiners Fund. \$149,567

SECTION 7.480.— To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Cosmetology and Barber Examiners	
Expense and Equipment.....	\$291,273
For criminal history checks.	<u>1,000E</u>
From Board of Cosmetology and Barber Examiners Fund.	\$292,273

SECTION 7.485. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the Missouri Dental Board	
Personal Service.	\$372,146
Expense and Equipment.....	<u>262,863</u>
From Dental Board Fund (Not to exceed 8.50 F.T.E.).	\$635,009

SECTION 7.490. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Embalmers and Funeral Directors	
Expense and Equipment	
From Board of Embalmers and Funeral Directors Fund.	\$145,393

SECTION 7.495. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Registration for the Healing Arts	
Personal Service.	\$1,800,075
Expense and Equipment	759,494
For payment of fees for testing services.	<u>10,000E</u>
From Board of Registration for Healing Arts Fund	
(Not to exceed 44.00 F.T.E.)..	\$2,569,569

SECTION 7.500. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Nursing	
Personal Service.	\$1,035,738
Expense and Equipment	752,496
For criminal history checks.	<u>174,979E</u>
From Board of Nursing Fund (Not to exceed 28.00 F.T.E.).	\$1,963,213

SECTION 7.505. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Optometry	
Expense and Equipment	
From Board of Optometry Fund.	\$42,043

SECTION 7.510. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Pharmacy	
Personal Service.	\$940,068
Expense and Equipment	672,948
For criminal history checks.	<u>150,000E</u>
From Board of Pharmacy Fund (Not to exceed 14.00 F.T.E.).	\$1,763,016

SECTION 7.515. — To the Department of Insurance, Financial
Institutions and Professional Registration

For the State Board of Podiatric Medicine	
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Expense and Equipment
 From Board of Podiatric Medicine Fund. \$20,669

SECTION 7.520.— To the Department of Insurance, Financial
 Institutions and Professional Registration

For the Missouri Real Estate Commission
 Personal Service. \$922,447
 Expense and Equipment 287,544
 For criminal history checks. 30,000E
 From Missouri Real Estate Commission Fund (Not to exceed 26.00 F.T.E.). . . . \$1,239,991

SECTION 7.525.— To the Department of Insurance, Financial
 Institutions and Professional Registration

For the Missouri Veterinary Medical Board
 Expense and Equipment. \$69,579
 For payment of fees for testing services. 40,000E
 From Veterinary Medical Board Fund. \$109,579

SECTION 7.530.— Funds are to be transferred, the following amounts to
 the General Revenue Fund

From Board of Accountancy Fund. \$28,000E
 From Board of Architects, Professional Engineers, Land Surveyors
 and Landscape Architects Fund 122,100E
 From Athletic Fund 14,400E
 From Board of Chiropractic Examiners Fund. 8,000E
 From Licensed Social Workers Fund. 9,064E
 From Committee of Professional Counselors Fund 15,000E
 From Dental Board Fund 31,200E
 From Dietitian Fund. 1,200E
 From Board of Embalmers and Funeral Directors Fund 85,000E
 From Endowed Care Cemetery Audit Fund. 9,100E
 From Board of Geologist Registration Fund. 7,200E
 From Board of Registration for Healing Arts Fund 190,000E
 From Hearing Instrument Specialist Fund. 7,700E
 From Interior Designer Council Fund. 1,200E
 From Marital and Family Therapists' Fund 2,200E
 From Board of Nursing Fund 135,000E
 From Missouri Board of Occupational Therapy Fund 8,960E
 From Board of Optometry Fund 13,408E
 From Board of Pharmacy Fund. 119,000E
 From Board of Podiatric Medicine Fund. 7,700E
 From State Committee of Psychologists Fund 26,000E
 From Real Estate Appraisers Fund 51,000E
 From Respiratory Care Practitioners Fund 6,250E
 From State Committee of Interpreters Fund. 7,800E
 From Missouri Real Estate Commission Fund. 150,000E
 From Veterinary Medical Board Fund 22,200E
 From Board of Private Investigator Examiners Fund. 1E
 From Tattoo Fund 5,047E
 From Acupuncturist Fund. 3,000E
 From Massage Therapy Fund. 5,200E
 From Athletic Agent Fund 1E

From Board of Cosmetology and Barber Examiners Fund.	91,250E
Total.	\$1,183,181

SECTION 7.535.— Funds are to be transferred, for payment of operating expenses, the following amounts to the Professional Registration Fees Fund

From Board of Accountancy Fund.	\$133,938E
From Board of Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund	278,472E
From Athletic Fund	189,295E
From Board of Chiropractic Examiners Fund.	133,850E
From Licensed Social Workers Fund.	214,657E
From Committee of Professional Counselors Fund	283,797E
From Dental Board Fund	69,800E
From Dietitian Fund.	56,348E
From Board of Embalmers and Funeral Directors Fund	363,579E
From Endowed Care Cemetery Audit Fund.	122,879E
From Board of Geologist Registration Fund.	71,215E
From Board of Registration for Healing Arts Fund	430,439E
From Hearing Instrument Specialist Fund.	88,470E
From Interior Designer Council Fund.	42,037E
From Marital and Family Therapists' Fund	17,211E
From Board of Nursing Fund	1,104,260E
From Missouri Board of Occupational Therapy Fund	138,152E
From Board of Optometry Fund	79,961E
From Board of Pharmacy Fund.	274,379E
From Board of Podiatric Medicine Fund.	27,269E
From State Committee of Psychologists Fund	348,058E
From Real Estate Appraisers Fund	419,574E
From Respiratory Care Practitioners Fund	137,692E
From State Committee of Interpreters Fund.	48,475E
From Missouri Real Estate Commission Fund.	540,206E
From Veterinary Medical Board Fund	171,129E
From Tattoo Fund	51,460E
From Acupuncturist Fund.	8,298E
From Massage Therapy Fund.	146,278E
From Athletic Agent Fund	888E
From Board of Cosmetology and Barber Examiners Fund.	1,622,527E
From Board of Private Investigator Examiners Fund.	1E
Total.	\$7,614,594

SECTION 7.540.— Funds are to be transferred, for funding new licensing activity pursuant to Section 620.106, RSMo, the following amounts to the Professional Registration Fees Fund

From Any Board Funds.	\$1E
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SECTION 7.545.— Funds are to be transferred, for the reimbursement of funds loaned for new licensing activity pursuant to Section 620.106, RSMo, the following amount to the appropriate board fund

From Professional Registration Fees Fund.	\$1E
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SECTION 7.800.— To the Department of Labor and Industrial Relations
For the Director and Staff

Personal Service.....	\$1E
Expense and Equipment ..	<u>1,025,000E</u>
From Unemployment Compensation Administration Fund	1,025,001

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	5,494,265
Annual salary adjustment in accordance with Section 105.005, RSMo.	<u>3,118</u>
From Department of Labor and Industrial Relations Administrative Fund.....	5,497,383

Personal Service	
From Workers' Compensation Fund.	56,650
From Special Employment Security Fund.	<u>56,650</u>
Total (Not to exceed 62.00 F.T.E.).	\$6,635,684

SECTION 7.805.— Funds are to be transferred, for payment of administrative costs, the following amounts to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund.	\$349,753
From Federal Funds	60,356
From Unemployment Compensation Administration Fund	5,596,485
From Workers' Compensation Fund.	972,617
From Special Employment Security Fund.	<u>200,000</u>
Total.	\$7,179,211

SECTION 7.810.— Funds are to be transferred, for payment of administrative costs charged by the Office of Administration, the following amounts to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund.	\$224,161
From Federal Funds	54,978
From Unemployment Compensation Administration Fund	2,345,515
From Workers' Compensation Fund.	<u>628,500</u>
Total.	\$3,253,154

SECTION 7.815.— To the Department of Labor and Industrial Relations For the Labor and Industrial Relations Commission

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$14,813

Personal Service.....	379,732
Annual salary adjustment in accordance with Section 105.005, RSMo	4,590
Expense and Equipment.	<u>59,892</u>
From Unemployment Compensation Administration Fund	444,214

Personal Service.....	452,701
Annual salary adjustment in accordance with Section 105.005, RSMo	4,590
Expense and Equipment.	<u>71,263</u>
From Workers' Compensation Fund.	<u>528,554</u>
Total (Not to exceed 14.00 F.T.E.).	\$987,581

SECTION 7.820.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.....	\$1,087,812
Personal Service.....	1E
Expense and Equipment.....	<u>32,670</u>
From Federal Funds	32,671
Personal Service.....	226,819
Expense and Equipment.....	<u>45,914</u>
From Workers' Compensation Fund.....	272,733
Expense and Equipment	
From Child Labor Enforcement Fund.....	<u>185,000</u>
Total (Not to exceed 27.00 F.T.E.).....	\$1,578,216

SECTION 7.825.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For safety and health programs

Personal Service and/or Expense and Equipment	
From General Revenue Fund.....	\$74,472
Personal Service.....	797,739E
Expense and Equipment.....	<u>299,060E</u>
From Federal Funds.....	<u>1,096,799</u>
Total (Not to exceed 17.00 F.T.E.).....	\$1,171,271

SECTION 7.830.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For mine safety and health training programs

Personal Service and/or Expense and Equipment	
From General Revenue Fund.....	\$63,946
Personal Service.....	205,726E
Expense and Equipment.....	<u>165,063E</u>
From Federal Funds.....	<u>370,789</u>
Total (Not to exceed 5.00 F.T.E.).....	\$434,735

SECTION 7.835.— To the Department of Labor and Industrial Relations
For the State Board of Mediation

Personal Service.....	\$103,400
Expense and Equipment.....	<u>15,875</u>
From General Revenue Fund (Not to exceed 2.00 F.T.E.).....	\$119,275

SECTION 7.840.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For the purpose of funding Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between

personal service and expense and equipment.	\$9,471,500
Annual salary adjustment in accordance with Section 105.005, RSMo.	<u>120,057</u>
From Workers' Compensation Fund.	9,591,557

Funds are to be transferred from the Workers' Compensation Fund to the
Kids' Chance Scholarship Fund 50,000

Expense and Equipment	
From Tort Victims Compensation Fund.	<u>5,000</u>
Total (Not to exceed 159.25 F.T.E.).	\$9,646,557

SECTION 7.845.— For refunds for overpayment or erroneous payment of
any tax or any payment credited to the Workers' Compensation Fund
From Workers' Compensation Fund \$50,000E

SECTION 7.850.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For payment of special claims
From Workers' Compensation - Second Injury Fund. \$61,796,719

SECTION 7.855.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For refunds for overpayment of any tax or any payment credited to the
Workers' Compensation - Second Injury Fund
From Workers' Compensation - Second Injury Fund. \$250,000E

SECTION 7.860.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For payments of claims to tort victims
From Tort Victims Compensation Fund. \$100,000E

SECTION 7.865.— Funds are to be transferred in the following amounts,
pursuant to Section 567.675, RSMo, to the Legal Services for
Low-Income People Fund
From Tort Victims Compensation Fund. \$50,000E

SECTION 7.870.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
Personal Service. \$23,247,740E
Expense and Equipment. 5,113,206E
From Unemployment Compensation Administration Fund (Not to exceed
526.00 F.T.E.). \$28,360,946

SECTION 7.875.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
For administration of programs authorized and funded by the United
States Department of Labor, such as Disaster Unemployment
Assistance (DUA), and provided that all funds shall be expended
from discrete accounts and that no monies shall be expended for
funding administration of these programs by the Division of
Employment Security
From Unemployment Compensation Administration Fund. \$7,000,000E

SECTION 7.880.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

Personal Service.	\$504,509
Expense and Equipment	<u>1,885,358E</u>
From Special Employment Security Fund (Not to exceed 14.71 F.T.E.)	\$2,389,867

SECTION 7.885.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
For the War on Terror Unemployment Compensation Program

Expense and Equipment.	\$50,000
For payment of benefits.	<u>300,000E</u>
From War on Terror Unemployment Compensation Fund.	\$350,000

SECTION 7.890.— To the Department of Labor and Industrial Relations
For the Division of Employment Security

From Special Employment Security - Bond Proceeds.	\$1E
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SECTION 7.895.— To the Department of Labor and Industrial Relations
For the Division of Employment Security
For the payment of refunds set-off against debts as required by

Section 143.786, RSMo	
From Debt Offset Escrow Fund.	\$2,750,000E

SECTION 7.900.— To the Department of Labor and Industrial Relations
For the Missouri Commission on Human Rights

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$712,001
Personal Service.	895,097E
Expense and Equipment.	<u>161,866E</u>
From Federal Funds.	<u>1,056,963</u>
Total (Not to exceed 39.00 F.T.E.)	\$1,768,964

DEPARTMENT OF ECONOMIC DEVELOPMENT TOTALS

General Revenue Fund.	\$72,555,297
Federal Funds.	167,647,376
Other Funds.	<u>75,598,552</u>
Total.	\$315,801,225

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS
AND PROFESSIONAL REGISTRATION TOTALS**

Federal Funds.	\$700,000
Other Funds.	<u>36,171,835</u>
Total.	\$36,871,835

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TOTALS

General Revenue Fund.	\$2,646,233
Federal Funds.	47,444,717
Other Funds.	<u>77,183,848</u>
Total.	\$127,274,798

Approved June 27, 2008

HB 2008 [CCS SCS HCS HB 2008]

APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2008 and ending June 30, 2009, as follows:

***SECTION 8.005.** — To the Department of Public Safety

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	\$1,331,669
Annual salary adjustment in accordance with Section 105.005, RSMo.	3,118
From General Revenue Fund.	1,334,787
From Federal Funds	1,423,899E
From Crime Victims' Compensation Fund.	1,939,713

Personal Service and/or Expense and Equipment provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment	
From Services to Victims Fund.	28,098E

Expense and Equipment	
From Missouri Crime Prevention Information and Programming Fund.	50,000E
From Antiterrorism Fund.	5,000E

For the state and federal portions of an interoperable communications grant	
From General Revenue Fund.	3,421,175
From Federal Funds	17,465,576

For a statewide interoperable communications system that the Office of Administration shall when issuing a request for proposal(s) to procure a system to provide radio interoperability, shall not define specifications that unreasonably restrict the ability of interested parties to respond with proposals and shall at all times define specifications that are "vendor neutral", further preference in the selection of a vendor or vendors to provide an interoperable radio system shall be given to those respondents who offer a solution that enables users to preserve their investments in legacy systems, thus relieving local jurisdictions from the unfunded mandate of having to spend taxpayers dollars

to "upgrade" or "replace" a completely functional existing system,
provided that the Department of Public Safety shall submit to the
House Budget Chairman and the Senate Appropriations Chairman
quarterly reports showing the progress of the project, expenditures
to date, and total projected cost of the project

From General Revenue Fund.	6,150,000
From Conservation Commission Fund.	500,000
Total (Not to exceed 50.00 F.T.E.).	\$32,318,248

*I hereby veto \$500,000 Conservation Commission Fund for a statewide interoperable communications system. This appropriation violates Article IV, Section 43 (b) of the Missouri Constitution, which states that Conservation Commission funds shall be expended and used by the Conservation Commission, Department of Conservation, for the control, management, restoration, conservation and regulation of the bird, fish, game forestry and wildlife resources of the state, and for no other purpose. This expenditure is not for purposes listed and was not approved by the Conservation Commission.

From \$500,000 to \$0 from the Conservation Commission Fund.
From \$32,318,248 to \$31,818,248 in total for the section.

MATT BLUNT, GOVERNOR

SECTION 8.010.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Delinquency Prevention Program

From Federal Funds.	\$1,799,925E
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SECTION 8.015.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Accountability Incentive Block Grant Program

From Federal Funds.	\$2,000,000E
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SECTION 8.020.— To the Department of Public Safety

For the Office of the Director

For the Narcotics Control Assistance Program and multi-jurisdictional
task forces

From General Revenue Fund.	\$1,500,000
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From Federal Funds	7,000,000E
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Total.	\$8,500,000
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SECTION 8.025.— To the Department of Public Safety

For the Office of the Director

For the Program 1122

For the purchase of counter-drug equipment through federal
procurement channels by state and local law enforcement

From Program 1122 Fund.	\$500,000E
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SECTION 8.030.— To the Department of Public Safety

For the Office of the Director

For the purpose of funding operating grants to multijurisdictional

Internet cyber crime law enforcement task forces,

multijurisdictional enforcement groups and other law enforcement

agencies that are investigating Internet sex crimes against
children provided that not more than three percent (3%) is
used for grant administration

From General Revenue Fund \$1,501,200

SECTION 8.035.— To the Department of Public Safety

For the Office of the Director

For the Services to Victims Program

From Services to Victims Fund.. . . . \$5,450,000E

For counseling and other support services for crime victims

From Crime Victims' Compensation Fund.. . . . 50,000

Total. \$5,500,000

SECTION 8.040.— To the Department of Public Safety

For the Office of the Director

For the Victims of Crime Program

From Federal Funds. \$7,500,000E

SECTION 8.045.— To the Department of Public Safety

For the Office of the Director

For the Violence Against Women Program

From Federal Funds. \$2,499,500E

SECTION 8.050.— To the Department of Public Safety

For the Office of the Director

For the Crime Victims Compensation Program

From General Revenue Funds. \$1,660,013

From Federal Funds 2,212,671E

From Crime Victims' Compensation Fund.. . . . 6,987,329E

Total. \$10,860,013

SECTION 8.060.— To the Department of Public Safety

For the National Forensic Sciences Improvement Act Program

From Federal Funds. \$197,287E

SECTION 8.065.— To the Department of Public Safety

For the State Forensic Laboratory Program

From State Forensic Laboratory Fund. \$300,000E

SECTION 8.070.— To the Department of Public Safety

For the Office of the Director

For the Residential Substance Abuse Treatment Program

From Federal Funds. \$250,000E

SECTION 8.075.— To the Department of Public Safety

For the Office of the Director

For peace officer training

From Peace Officer Standards and Training Commission Fund.. . . . \$1,400,000E

SECTION 8.080.— To the Department of Public Safety

For the Missouri Public Safety Officer Medal of Valor Act

From General Revenue Fund. \$5,000

SECTION 8.085. — To the Department of Public Safety

For the Capitol Police

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund (Not to exceed 37.00 F.T.E.). \$1,671,983

SECTION 8.090. — To the Department of Public Safety

For the State Highway Patrol

For Administration

Personal Service. \$24,853

Expense and Equipment. 16,279

From General Revenue Fund. 41,132

For the High-Intensity Drug Trafficking Area Program

From Federal Funds 1,500,000E

Personal Service. 5,391,472

Expense and Equipment. 430,812

From State Highways and Transportation Department Fund 5,822,284

Personal Service

From Criminal Record System Fund 40,110

Personal Service. 32,703

Expense and Equipment. 4,865

From Gaming Commission Fund. 37,568

Total (Not to exceed 107.00 F.T.E.). \$7,441,094

SECTION 8.095. — To the Department of Public Safety

For the State Highway Patrol

For fringe benefits, including retirement contributions for members

of the Missouri Department of Transportation and Highway Patrol

Employees' Retirement System, and insurance premiums

Personal Service. \$6,412,924E

Expense and Equipment. 798,841E

From General Revenue Fund. 7,211,765

Personal Service. 1,230,207E

Expense and Equipment. 92,727E

From Federal Funds 1,322,934

Personal Service. 117,389E

Expense and Equipment. 12,693E

From Gaming Commission Fund. 130,082

Personal Service. 48,315,070E

Expense and Equipment. 5,807,981E

From State Highways and Transportation Department Fund 54,123,051

Personal Service.....	2,066,038E
Expense and Equipment.....	<u>233,586E</u>
From Criminal Record System Fund.....	2,299,624

Personal Service.....	59,160E
Expense and Equipment.....	<u>5,545E</u>
From Highway Patrol Academy Fund.....	64,705

Personal Service.....	3,749E
Expense and Equipment.....	<u>510E</u>
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.....	4,259

Personal Service.....	39,644E
Expense and Equipment.....	<u>6,026E</u>
From DNA Profiling Analysis Fund.....	45,670

Personal Service.....	33,564E
Expense and Equipment.....	<u>4,299E</u>
From Highway Patrol Traffic Records Fund.....	<u>37,863</u>
Total.....	\$65,239,953

SECTION 8.100.— To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.....	\$11,674,586
From State Highways and Transportation Department Fund.....	70,146,883

Personal Service.....	3,344,738
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For receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to expenditure of said funds

Expense and Equipment.....	<u>8,457,677E</u>
From Federal Funds.....	11,802,415

All expenditures must be in compliance with the United States

Department of Justice Equitable Sharing Program guidelines

Expense and Equipment

From Federal Drug Seizure Fund.....	983,087
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Personal Service.....	3,218,684
Expense and Equipment.....	4,412,409
National Criminal Record Reviews.....	<u>2,400,000E</u>
From Criminal Record System Fund.....	10,031,093

Expense and Equipment	
From Gaming Commission Fund.....	109,101

Personal Service.....	7,657
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Expense and Equipment.....	469,500
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.....	477,157

Expense and Equipment	
From Highway Patrol Traffic Records Fund.....	343,500
Total (Not to exceed 1,400.50 F.T.E.)	\$105,567,822

SECTION 8.105.— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including

aircraft and Gaming Commission vehicles

Expense and Equipment	
From General Revenue Fund.....	\$233,299
From Gaming Commission Fund.....	246,329
From State Highways and Transportation Department Fund.....	2,455,272
Total.....	\$2,934,900

SECTION 8.110.— To the Department of Public Safety

For the State Highway Patrol

For purchase of vehicles and aircraft for the State Highway Patrol

and the Gaming Commission

Expense and Equipment	
From General Revenue Fund.....	\$49,350
From State Highways and Transportation Department Fund	5,121,046
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.....	7,578,840
From Gaming Commission Fund.....	474,571
Total.....	\$13,223,807

SECTION 8.115.— To the Department of Public Safety

For the State Highway Patrol

For Crime Labs

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$3,114,818
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Personal Service.....	222,260
Expense and Equipment	636,223E
For grants to St. Louis City and St. Louis County Forensic DNA Labs.	100,000E
From Federal Funds	958,483

Personal Service.....	3,669,594
Expense and Equipment.....	789,136
From State Highways and Transportation Department Fund	4,458,730

Personal Service.....	101,055
Expense and Equipment.....	3,600
From Criminal Record System Fund	104,655

Personal Service.....	60,544
Expense and Equipment.....	1,478,305
From DNA Profiling Analysis Fund	1,538,849

From State Forensic Laboratory Fund.	219,125E
Total (Not to exceed 105.00 F.T.E.).	\$10,394,660

SECTION 8.120.— To the Department of Public Safety

For the State Highway Patrol

For the Law Enforcement Academy

Personal Service

From General Revenue Fund.	\$4,721
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Expense and Equipment

From Federal Funds	59,655
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Personal Service.	163,329
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Expense and Equipment.	82,298
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From Gaming Commission Fund.	245,627
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Personal Service.	1,403,375
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Expense and Equipment.	76,872
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From State Highways and Transportation Department Fund	1,480,247
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Personal Service.	96,055
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Expense and Equipment.	624,914
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From Highway Patrol Academy Fund.	720,969
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Total (Not to exceed 36.00 F.T.E.).	\$2,511,219
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SECTION 8.125.— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

Expense and Equipment

From Federal Funds.	\$600,000E
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Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From State Highways and Transportation Department Fund	11,200,916
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Expense and Equipment

From Highway Patrol Inspection Fund.	90,000E
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Total (Not to exceed 293.00 F.T.E.).	\$11,890,916
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SECTION 8.130.— To the Department of Public Safety

For the State Highway Patrol

For refunding unused motor vehicle inspection stickers

From State Highways and Transportation Department Fund.	\$40,000E
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SECTION 8.135.— To the Department of Public Safety

For the State Highway Patrol

For Technical Services

Personal Service.	\$409,740
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Expense and Equipment.	163,184
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From General Revenue Fund.	572,924
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Personal Service.	41,720
Expense and Equipment.	<u>3,897,969E</u>
From Federal Funds	3,939,689

Personal Service.	12,504,707
Expense and Equipment.	<u>10,664,013</u>
From State Highways and Transportation Department Fund	23,168,720

Personal Service.	595,996
Expense and Equipment.	<u>1,373,386</u>
From Criminal Record System Fund	1,969,382

Personal Service	
From Gaming Commission Fund.	20,502
From Highway Patrol Traffic Records Fund	74,555

Expense and Equipment	
From Criminal Justice Network and Technology Revolving Fund.	1,500,000E

For a statewide interoperable communications system that the Office of Administration shall when issuing a request for proposal(s) to procure a system to provide radio interoperability, shall not define specifications that unreasonably restrict the ability of interested parties to respond with proposals and shall at all times define specifications that are "vendor neutral", further preference in the selection of a vendor or vendors to provide an interoperable radio system shall be given to those respondents who offer a solution that enables users to preserve their investments in legacy systems, thus relieving local jurisdictions from the unfunded mandate of having to spend taxpayers dollars to "upgrade" or "replace" a completely functional existing system, provided that the Department of Public Safety shall submit to the House Budget Chairman and the Senate Appropriations Chairman quarterly reports showing the progress of the project, expenditures to date, and total projected cost of the project

From State Highways and Transportation Department Fund.	<u>2,350,000</u>
Total (Not to exceed 266.00 F.T.E.).	\$33,595,772

SECTION 8.140.— To the Department of Public Safety

For the State Highway Patrol

For the recoupment, receipt, and disbursement of funds for equipment replacement and emergency expenses

Expense and Equipment	
From Highway Patrol Expense Fund.	\$65,000E

SECTION 8.145.— Funds are to be transferred out of the State

Treasury, chargeable to the Highway Patrol Inspection Fund, to the State Road Fund

From Highway Patrol Inspection Fund.	\$1E
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SECTION 8.150.— To the Department of Public Safety

For the State Water Patrol

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment
From General Revenue Fund. \$5,907,730

Personal Service. 483,725
Expense and Equipment. 2,304,504E
From Federal Funds 2,788,229

All expenditures must be in compliance with the United States
Department of Justice Equitable Sharing Program guidelines
Expense and Equipment
From Federal Drug Seizure Fund 20,000

Personal Service. 1,665,244
Expense and Equipment. 600,000
From Missouri State Water Patrol Fund. 2,265,244
Total (Not to exceed 127.50 F.T.E.). \$10,981,203

SECTION 8.155.— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment
From General Revenue Fund. \$2,832,190
From Federal Funds 475,141
From Healthy Families Trust Fund. 144,760
Total (Not to exceed 57.00 F.T.E.). \$3,452,091

SECTION 8.160.— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

For refunds for unused liquor and beer licenses and for liquor and
beer stamps not used and canceled
From General Revenue Fund. \$18,000E

SECTION 8.165.— To the Department of Public Safety

For the Division of Fire Safety

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment
From General Revenue Fund. \$2,541,095
From Elevator Safety Fund. 395,512
From Boiler and Pressure Vessels Safety Fund 329,016
From Missouri Explosives Safety Act Administration Fund. 168,537

Expense and Equipment
From Federal Funds. 311,270
Total (Not to exceed 73.92 F.T.E.). \$3,745,430

SECTION 8.170.— To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment	
From General Revenue Fund.....	\$306,408
From Chemical Emergency Preparedness Fund.....	100,000
From Fire Education Fund	<u>150,000E</u>
Total	\$556,408

SECTION 8.175.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$2,562,540
From Missouri Veterans' Homes Fund	642,464
From Veterans' Commission Capital Improvement Trust Fund	1,957,558

Expense and Equipment	
From Veterans Trust Fund	24,800
From Federal Funds and Other Funds.....	<u>1E</u>
Total (Not to exceed 106.71 F.T.E.).....	\$5,187,363

SECTION 8.180.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Veterans' Service Officer Program

From Veterans' Commission Capital Improvement Trust Fund	\$1,000,000
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SECTION 8.185.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund.....	\$28,430,649
From Missouri Veterans' Homes Fund	39,163,464

Expense and Equipment	
From Veterans Trust Fund	52,500

Personal Service	
From Veterans' Commission Capital Improvement Trust Fund	27,804

For the purpose of paying overtime to state employees and/or paying
otherwise authorized personal service expenditures in lieu of
such overtime payments. Non-exempt state employees identified
by Section 105.935, RSMo will be paid first with any remaining
funds being used to pay overtime to any other state employees

From General Revenue Fund.....	4,504
From Missouri Veterans' Homes Fund	<u>2,423,654</u>
Total (Not to exceed 1,646.48 F.T.E.)	\$70,102,575

SECTION 8.190.— Funds are to be transferred out of the State

Treasury, chargeable to the Veterans' Commission Capital

Improvement Trust Fund, to the Veterans' Homes Fund
 From Veterans' Commission Capital Improvement Trust Fund. \$500,000E

SECTION 8.195.— To the Department of Public Safety

For the Gaming Commission

For the Divisions of Gaming and Bingo

Personal Service. \$13,123,450

Expense and Equipment 1,940,115

For National Council of Legislators from Gaming States Dues. 3,000

From Gaming Commission Fund. 15,066,565

Personal Service. 81,905

Expense and Equipment. 60,000

From Compulsive Gamblers Fund. 141,905

Total (Not to exceed 217.00 F.T.E.). \$15,208,470

SECTION 8.200.— To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members
 of the Missouri Department of Transportation and Highway Patrol
 Employees' Retirement System, and insurance premiums for State
 Highway Patrol employees assigned to work under the direction of
 the Gaming Commission

Personal Service. \$4,809,328E

Expense and Equipment. 267,317E

From Gaming Commission Fund. \$5,076,645

SECTION 8.205.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount that
 is credited to the Gaming Commission Fund

From Gaming Commission Fund. \$15,000E

SECTION 8.210.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount
 received for bingo fees

From Bingo Proceeds for Education Fund. \$5,000E

SECTION 8.215.— To the Department of Public Safety

For the Gaming Commission

For breeder incentive payments

From Missouri Breeders Fund. \$5,000

SECTION 8.220.— Funds are to be transferred out of the State

Treasury, chargeable to the Gaming Commission Fund, to the
 Veterans' Commission Capital Improvement Trust Fund

From Gaming Commission Fund. \$6,000,000E

SECTION 8.225.— Funds are to be transferred out of the State

Treasury, chargeable to the Gaming Commission Fund, to the
 Missouri National Guard Trust Fund

From Gaming Commission Fund. \$4,000,000E

SECTION 8.230.— Funds are to be transferred out of the State
Treasury, chargeable to the Gaming Commission Fund, to the
Access Missouri Financial Assistance Fund

From Gaming Commission Fund. \$5,000,000E

SECTION 8.235.— Funds are to be transferred out of the State
Treasury, chargeable to the Gaming Commission Fund, to the Early
Childhood Development, Education and Care Fund

From Gaming Commission Fund. \$30,320,000E

SECTION 8.240.— Funds are to be transferred out of the State
Treasury, chargeable to the Gaming Commission Fund, to the
Compulsive Gamblers Fund

From Gaming Commission Fund. \$489,850E

SECTION 8.245.— To the Adjutant General
For Missouri Military Forces Administration

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$1,403,178

All expenditures must be in compliance with the United States
Department of Justice Equitable Sharing Program guidelines
Expense and Equipment

From Federal Drug Seizure Fund. 21,000

Total (Not to exceed 37.68 F.T.E.). \$1,424,178

SECTION 8.250.— To the Adjutant General
For activities in support of the Guard, including the National Guard

Tuition Assistance Program and the Military Honors Program
Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From the Missouri National Guard Trust Fund (Not to exceed 42.40 F.T.E.). . . \$5,441,929

SECTION 8.255.— To the Adjutant General
For the Veterans Recognition Program

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From the Veterans' Commission Capital Improvement Trust Fund (Not to
exceed 3.00 F.T.E.). \$628,021

SECTION 8.260.— To the Adjutant General
For Missouri Military Forces Field Support

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$1,099,008

Personal Service.....	34,817
Expense and Equipment.....	<u>68,813E</u>
From Federal Funds.....	103,630
Total (Not to exceed 39.32 F.T.E.).....	<u>\$1,202,638</u>

SECTION 8.265.— To the Adjutant General

For operational expenses at armories from armory rental fees

Expense and Equipment	
From Adjutant General Revolving Fund.....	\$25,000E

SECTION 8.270.— To the Adjutant General

For the Missouri Military Family Relief Program

Expense and Equipment.....	\$10,500
For grants to family members of the National Guard and reservists who are in financial need	<u>189,500E</u>
From Missouri Military Family Relief Fund.....	<u>\$200,000</u>

SECTION 8.280.— To the Adjutant General

For training site operating costs

Expense and Equipment	
From Missouri National Guard Training Site Fund.....	\$244,800E

SECTION 8.285.— To the Adjutant General

For Military Forces Contract Services

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.....	\$597,606
From Federal Funds	16,846,856E

For refund of federal overpayments to the state for the Contract

Services Program	
From Federal Funds	30,000E

Personal Service	
From Missouri National Guard Training Site Fund.....	19,032

Expense and Equipment	
From Missouri National Guard Trust Fund.....	<u>231,249</u>
Total (Not to exceed 327.72 F.T.E.).....	<u>\$17,724,743</u>

SECTION 8.290.— To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment	
From General Revenue Fund.....	\$16,978

SECTION 8.295.— To the Department of Public Safety

For the State Emergency Management Agency

For Administration and Emergency Operations

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
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From General Revenue Fund.....	\$1,811,846
Personal Service.....	1,176,755
Expense and Equipment.....	375,876
From Federal Funds	<u>1,552,631</u>
Personal Service.....	155,790
Expense and Equipment.....	86,892
From Chemical Emergency Preparedness Fund.....	<u>242,682</u>
Total (Not to exceed 62.00 F.T.E.).....	<u>\$3,607,159</u>

SECTION 8.300.— To the Department of Public Safety

For the State Emergency Management Agency

For the Community Right-to-Know Act

From Chemical Emergency Preparedness Fund..... \$650,000

For distribution of funds to local emergency planning commissions to
implement the federal Hazardous Materials Transportation Uniform
Safety Act of 1990

From Federal Funds..... 346,890
Total..... \$996,890

SECTION 8.305.— To the Department of Public Safety

For the State Emergency Management Agency

For all allotments, grants, and contributions from federal and other
sources that are deposited in the State Treasury for
administrative and training expenses of the State Emergency
Management Agency

From Federal Funds..... \$40,000,000E

For all allotments, grants, and contributions from federal and other
sources that are deposited in the State Treasury for the use of
the State Emergency Management Agency for alleviating distress
from disasters

From Missouri Disaster Fund..... 505,167E

To provide matching funds for federal grants and for emergency
assistance expenses of the State Emergency Management Agency as
provided in Section 44.032, RSMo

From General Revenue Fund..... 999,999E

To provide for expenses of any state agency responding during a
declared emergency at the direction of the governor provided the
services furnish immediate aid and relief

From General Revenue Fund..... 1E

For all allotments, grants, and contributions from federal and other
sources that are deposited in the State Treasury for first
responder training programs

From Federal Funds..... 5,000,000E
Total..... \$46,505,167

BILL TOTALS

General Revenue Fund.	\$88,660,485
Federal Funds.	131,485,935
Other Funds.	<u>307,824,567</u>
Total.	\$527,970,987

Approved June 27, 2008

HB 2009 [CCS SCS HCS HB 2009]
APPROPRIATIONS: DEPARTMENT OF CORRECTIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009, as follows:

SECTION 9.005.— To the Department of Corrections

For the purpose of funding the Office of the Director

Personal Service and/or Expense and Equipment provided that not more than twenty-five percent (25%) is allowed between personal service and expense and equipment; and that flexibility is allowed between Sections 9.005, 9.015, 9.075 - 9.185 and 9.235 to use anticipated personal service and/or expense and equipment lapse amounts for the purpose of payment of the final judgment in case 04-CV-324864.	\$3,715,449
Annual salary adjustment in accordance with Section 105.005, RSMo.	<u>3,119</u>
From General Revenue Fund (Not to exceed 96.74 F.T.E.).	\$3,718,568

SECTION 9.010.— To the Department of Corrections

For the Office of the Director

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may become available between sessions of the general assembly

Personal Service.	\$2,595,487E
Expense and Equipment	<u>3,896,507E</u>
From Federal Funds (Not to exceed 62.50 F.T.E.).	\$6,491,994

SECTION 9.015.— To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased offender population department-wide, including, but not limited to,

funding for personal service, expense and equipment, contractual
services, repairs, renovations, capital improvements, and
compensatory time
From General Revenue Fund. \$2,447,412

SECTION 9.020.— To the Department of Corrections

For the Office of the Director
For the purpose of funding the expense of telecommunications department-wide
Expense and Equipment
From General Revenue Fund. \$2,239,422

SECTION 9.025.— To the Department of Corrections

For the Office of the Director
For the purpose of funding restitution payments for those wrongly convicted
From General Revenue Fund. \$182,500

SECTION 9.030.— To the Department of Corrections

For the Division of Human Services
Personal Service. \$9,186,279
Expense and Equipment. 195,343
From General Revenue Fund. 9,381,622

Personal Service. 111,419
Expense and Equipment. 63,049
From Inmate Revolving Fund. 174,468
Total (Not to exceed 264.16 F.T.E.). \$9,556,090

SECTION 9.035.— To the Department of Corrections

For the Division of Human Services
For the purpose of funding general services
Expense and Equipment
From General Revenue Fund. \$481,857

SECTION 9.040.— To the Department of Corrections

For the Division of Human Services
For the purchase, transportation, and storage of food and food
service items, and operational expenses of food preparation
facilities at all correctional institutions
Expense and Equipment
From General Revenue Fund. \$27,088,661
From Federal Funds. 450,000
Total. \$27,538,661

SECTION 9.045.— To the Department of Corrections

For the Division of Human Services
For the purpose of funding training costs department-wide
Expense and Equipment
From General Revenue Fund. \$1,566,720

SECTION 9.050.— To the Department of Corrections

For the Division of Human Services
For the purpose of funding employee health and safety

Expense and Equipment
From General Revenue Fund. \$621,145

SECTION 9.055.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the expenses and small equipment purchased
at any of the adult institutions department-wide
Expense and Equipment
From General Revenue Fund. \$22,437,566

SECTION 9.060.— To the Department of Corrections
For the Division of Human Services
For the purpose of paying overtime to state employees and/or paying
otherwise authorized personal service expenditures in lieu of
such overtime payments. Nonexempt state employees identified by
Section 105.935, RSMo, will be paid first with any remaining
funds being used to pay overtime to any other state employees
From General Revenue Fund. \$10,015,775
From Other Funds. 2E
Total. \$10,015,777

SECTION 9.065.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Central Office
Personal Service. \$1,512,081
Expense and Equipment. 176,964
From General Revenue Fund (Not to exceed 40.70 F.T.E.). \$1,689,045

SECTION 9.070.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the inmate wage and discharge costs at all
correctional facilities
Expense and Equipment
From General Revenue Fund. \$3,858,702

SECTION 9.075.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Jefferson City Correctional Center
Personal Service
From General Revenue Fund (Not to exceed 515.41 F.T.E.). \$16,328,668

SECTION 9.080.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Central Missouri Correctional Center
at Jefferson City
Personal Service
From General Revenue Fund (Not to exceed 16.00 F.T.E.). \$593,073

SECTION 9.085.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Women's Eastern Reception and
Diagnostic Center at Vandalia
Personal Service

From General Revenue Fund (Not to exceed 451.00 F.T.E.).. \$14,083,507

SECTION 9.090.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Ozark Correctional Center at Fordland

Personal Service

From General Revenue Fund.. \$4,777,669

From Inmate Revolving Fund. 332,994

Total (Not to exceed 154.39 F.T.E.).. \$5,110,663

SECTION 9.095.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Moberly Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 389.52 F.T.E.).. \$12,564,985

SECTION 9.100.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Algoa Correctional Center at Jefferson City

Personal Service

From General Revenue Fund (Not to exceed 317.01 F.T.E.).. \$9,976,735

SECTION 9.105.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Missouri Eastern Correctional Center at Pacific

Personal Service

From General Revenue Fund (Not to exceed 314.88 F.T.E.).. \$9,930,235

SECTION 9.110.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Chillicothe Correctional Center

Personal Service

From General Revenue Fund.. \$14,634,764

From Inmate Revolving Fund. 27,829

Total (Not to exceed 492.89 F.T.E.).. \$14,662,593

SECTION 9.115.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Boonville Correctional Center

Personal Service

From General Revenue Fund.. \$9,509,680

From Inmate Revolving Fund. 33,876

Total (Not to exceed 296.86 F.T.E.).. \$9,543,556

SECTION 9.120.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Farmington Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 569.76 F.T.E.).. \$19,004,337

SECTION 9.125.— To the Board of Public Buildings

For the purpose of funding payment of rent by the Department of

Corrections (Division of Adult Institutions) to the Board of
Public Buildings
For the Farmington Correctional Center
Funds to be used by the Board for Personal Service
From General Revenue Fund (Not to exceed 24.76 F.T.E.). \$860,901

SECTION 9.130.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Missouri Correctional Center
at Cameron
Personal Service
From General Revenue Fund (Not to exceed 474.54 F.T.E.). \$15,626,736

SECTION 9.135.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Potosi Correctional Center
Personal Service
From General Revenue Fund (Not to exceed 338.78 F.T.E.). \$11,003,465

SECTION 9.140.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Fulton Reception and Diagnostic Center
Personal Service
From General Revenue Fund (Not to exceed 398.16 F.T.E.). \$12,530,803

SECTION 9.145.— To the Board of Public Buildings
For the purpose of funding payment of rent by the Department of
Corrections (Division of Adult Institutions) to the Board of
Public Buildings
For the Fulton Reception and Diagnostic Center
Funds to be used by the Board for Personal Service
From General Revenue Fund (Not to exceed 19.90 F.T.E.). \$636,455

SECTION 9.150.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Tipton Correctional Center
Personal Service
From General Revenue Fund. \$9,692,300
From Inmate Revolving Fund. 88,206
Total (Not to exceed 307.64 F.T.E.). \$9,780,506

SECTION 9.155.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Reception and Diagnostic
Center at St. Joseph
Personal Service
From General Revenue Fund (Not to exceed 526.00 F.T.E.). \$16,066,394

SECTION 9.160.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Maryville Treatment Center
Personal Service

From General Revenue Fund (Not to exceed 186.00 F.T.E.) \$5,681,686

SECTION 9.165.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Crossroads Correctional Center at Cameron

Personal Service

From General Revenue Fund (Not to exceed 386.00 F.T.E.) \$11,746,009

SECTION 9.170.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Northeast Correctional Center at

Bowling Green

Personal Service

From General Revenue Fund (Not to exceed 526.00 F.T.E.) \$15,911,183

SECTION 9.175.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Eastern Reception and Diagnostic

Center at Bonne Terre

Personal Service

From General Revenue Fund (Not to exceed 653.00 F.T.E.) \$19,626,715

SECTION 9.180.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the South Central Correctional Center at Licking

Personal Service

From General Revenue Fund (Not to exceed 413.00 F.T.E.) \$12,451,225

SECTION 9.185.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Southeast Correctional Center at Charleston

Personal Service

From General Revenue Fund (Not to exceed 413.00 F.T.E.) \$12,317,277

SECTION 9.190.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding the Central Office

Personal Service. \$2,011,409

Expense and Equipment. 58,195

From General Revenue Fund (Not to exceed 43.15 F.T.E.) \$2,069,604

SECTION 9.195.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding contractual services for offender physical
and mental health care

From General Revenue Fund. \$122,530,499

Expense and Equipment

From Federal Funds. 1E

Total. \$122,530,500

SECTION 9.200.— To the Department of Corrections

For the Division of Offender Rehabilitative Services

For the purpose of funding medical equipment
Expense and Equipment
From General Revenue Fund. \$232,523

SECTION 9.205.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of substance abuse services
From General Revenue Fund. \$9,624,177

Expense and Equipment
From Correctional Substance Abuse Earnings Fund. 264,600
Total (Not to exceed 109.50 F.T.E.). \$9,888,777

SECTION 9.210.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of toxicology testing
Expense and Equipment
From General Revenue Fund. \$859,831

SECTION 9.215.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purposes of offender education
Personal Service. \$9,567,634
Expense and Equipment. 2,597,314
From General Revenue Fund. 12,164,948

Expense and Equipment
From Working Capital Revolving Fund. 350,000
Total (Not to exceed 259.50 F.T.E.). \$12,514,948

SECTION 9.220.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding all costs associated with the Offender Reentry Program
Expense and Equipment
From General Revenue Fund. \$372,096

SECTION 9.225.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding Missouri Correctional Enterprises
Personal Service. \$8,133,095
Expense and Equipment. 25,645,726
From Working Capital Revolving Fund (Not to exceed 234.00 F.T.E.). \$33,778,821

SECTION 9.230.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding the Private Sector/Prison Industry
Enhancement Program
Expense and Equipment
From Working Capital Revolving Fund. \$962,762

SECTION 9.232.— To the Department of Corrections
For the Division of Offender Rehabilitative Services

For the purpose of funding a re-entry pilot program in the City of St. Louis
From General Revenue Fund..... \$900,000

SECTION 9.235.— To the Department of Corrections

For the purpose of funding the Board of Probation and Parole
Personal Service..... \$60,955,367
Annual salary adjustment in accordance with Section 105.005, RSMo 17,065
Expense and Equipment..... 4,543,501
From General Revenue Fund..... 65,515,933

Expense and Equipment
From Inmate Revolving Fund. 5,973,631
Total (Not to exceed 1,755.08 F.T.E.). \$71,489,564

SECTION 9.240.— To the Department of Corrections

For the Board of Probation and Parole
For the purpose of funding the St. Louis Community Release Center
Personal Service
From General Revenue Fund (Not to exceed 130.71 F.T.E.).. \$4,252,822

SECTION 9.245.— To the Department of Corrections

For the Board of Probation and Parole
For the purpose of funding the Kansas City Community Release Center
Personal Service
From General Revenue Fund..... \$2,457,604
From Inmate Revolving Fund. 47,423
Total (Not to exceed 78.69 F.T.E.)..... \$2,505,027

SECTION 9.250.— To the Department of Corrections

For the Board of Probation and Parole
For the purpose of funding the Command Center
Expense and Equipment
From General Revenue Fund..... \$238,771

Personal Service
From Inmate Revolving Fund. 542,932
Total (Not to exceed 14.40 F.T.E.)..... \$781,703

SECTION 9.255.— To the Department of Corrections

For the Board of Probation and Parole
For the purpose of funding Local Sentencing Initiatives
Expense and Equipment
From Inmate Revolving Fund. \$1,087,115

SECTION 9.260.— To the Department of Corrections

For the Board of Probation and Parole
For the purpose of funding residential treatment facilities
Expense and Equipment
From Inmate Revolving Fund. \$4,989,458

SECTION 9.265.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding electronic monitoring
 Expense and Equipment
 From Inmate Revolving Fund. \$1,980,289

SECTION 9.270. — To the Department of Corrections

For the Board of Probation and Parole
 For the purpose of funding community supervision centers
 Personal Service. \$4,579,510
 Expense and Equipment. 2,357,481
 From General Revenue Fund (Not to exceed 157.00 F.T.E.). \$6,936,991

SECTION 9.275. — To the Department of Corrections

For paying an amount in aid to the counties that is the net amount of
 costs in criminal cases, transportation of convicted criminals
 to the state penitentiaries, housing, and costs for reimbursement
 of the expenses associated with extradition, less the amount of
 unpaid city or county liability to furnish public defender office
 space and utility services pursuant to Section 600.040, RSMo
 From General Revenue Fund. \$43,060,616

BILL TOTALS

General Revenue Fund. \$612,500,212
 Federal Funds. 6,941,995
 Other Funds. 50,634,406
 Total. \$670,076,613

Approved June 27, 2008

HB 2010 [CCS SCS HCS HB 2010]

APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH; BOARD OF PUBLIC BUILDINGS; DEPARTMENT OF HEALTH AND SENIOR SERVICES; AND THE MISSOURI HEALTH FACILITIES REVIEW COMMITTEE.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services, and the several divisions and programs thereof, the Missouri Health Facilities Review Committee to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009, as follows:

SECTION 10.005.— To the Department of Mental Health

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$695,267

Personal Service. 37,358

Expense and Equipment. 76,223

From Federal Funds. 113,581

Total (Not to exceed 9.52 F.T.E.). \$808,848

SECTION 10.010.— To the Department of Mental Health

For the Office of the Director

For the purpose of paying overtime to state employees and/or paying
otherwise authorized personal service expenditures in lieu of
such overtime payments. Non-exempt state employees identified
by Section 105.935, RSMo, will be paid first with any remaining
funds being used to pay overtime to any other state employees

From General Revenue Fund. \$1,410,617

SECTION 10.015.— There is transferred out of the State Treasury from

Federal Funds to the OA Information Technology - Federal and
Other Fund for the purpose of funding the consolidation of
Information Technology Services

From Federal Funds. \$60,000E

SECTION 10.020.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Mental Health Transformation - State

Incentive grants

Personal Service. \$726,856

Expense and Equipment 2,060,214E

From Federal Funds (Not to exceed 9.85 F.T.E.). \$2,787,070

SECTION 10.025.— To the Department of Mental Health

For the Office of the Director

For funding program operations and support

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$5,839,567

Personal Service. 741,877

Expense and Equipment. 847,016

From Federal Funds 1,588,893

For the MO HealthNet mental health partnership technology initiative

From General Revenue Fund. 783,350

From Federal Funds 1,716,650

From Health Care Technology Fund 1,250,000

For the payment of fees to contractors who engage in revenue maximization projects on behalf of the Department of Mental Health	
From Federal Funds.	1E
Total (Not to exceed 133.78 F.T.E.).	\$11,178,461

SECTION 10.030.— To the Department of Mental Health

For the Office of the Director	
For staff training	
From General Revenue Fund.	\$764,360
From Federal Funds	1,000,000
Total.	\$1,764,360

SECTION 10.035.— To the Department of Mental Health

For the Office of the Director	
For the purpose of funding insurance, private pay, licensure fee, and/or MO HealthNet refunds by state facilities operated by the Department of Mental Health	
From General Revenue Fund.	\$49,217E

For the payment of refunds set off against debts as required by
Section 143.786, RSMo

From Debt Offset Escrow Fund.	70,000E
Total.	\$119,217

SECTION 10.040.— There is transferred out of the State Treasury from
the Abandoned Fund Account to Mental Health Trust Fund

From Abandoned Fund Account.	\$50,000E
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SECTION 10.045.— To the Department of Mental Health

For the Office of the Director	
For the purpose of funding receipt and disbursement of donations and gifts which may become available to the Department of Mental Health during the year (excluding federal grants and funds)	
Personal Service.	\$827,464
Expense and Equipment.	1,283,486
From Mental Health Trust Fund (Not to exceed 11.50 F.T.E.).	\$2,110,950

SECTION 10.050.— To the Department of Mental Health

For the Office of the Director	
For the purpose of receiving and expending grants, donations, contracts, and payments from private, federal, and other governmental agencies which may become available between sessions of the general assembly provided that the general assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds	
Personal Service.	\$112,982E
Expense and Equipment	1,794,378E
From Federal Funds (Not to exceed 2.00 F.T.E.).	\$1,907,360

SECTION 10.055.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Children's System of Care. \$7,165,301

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment. 325,388
From Federal Funds (Not to exceed 2.20 F.T.E.). \$7,490,689

SECTION 10.060.— To the Department of Mental Health

For the Office of the Director

For housing assistance for homeless veterans

From General Revenue Fund. \$300,000
From Federal Funds 715,000

For the purpose of funding Shelter Plus Care grants

From Federal Funds. 6,923,031
Total. \$7,938,031

SECTION 10.065.— To the Department of Mental Health

For MO HealthNet payments related to intergovernmental payments

From Mental Health Intergovernmental Transfer Fund. \$8,000,000
From Federal Funds 11,000,000E
Total. \$19,000,000

SECTION 10.070.— There is transferred out of the State Treasury from

Federal Funds to the General Revenue Fund for the purpose of
supporting MRDD community programs

From Federal Funds. \$850,000

SECTION 10.075.— There is transferred out of the State Treasury from

Federal Funds to the General Revenue Fund Disproportionate Share
Hospital (DSH) funds leveraged by the Department of Mental
Health - Institute of Mental Disease (IMD) facilities

From Federal Funds. \$37,304,309E

SECTION 10.080.— There is transferred out of the State Treasury from

Federal Funds to the General Revenue Fund for the purpose of
funding MRDD state-operated facilities

From Federal Funds. \$700,000

SECTION 10.100.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide comprehensive
alcohol and drug abuse prevention and treatment programs

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$1,153,828

Personal Service. 853,949

Expense and Equipment. 183,541

From Federal Funds 1,037,490

Personal Service
From Health Initiatives Fund 45,069

Personal Service 114,061
Expense and Equipment 52,372
From Mental Health Earnings Fund 166,433
Total (Not to exceed 45.88 F.T.E.). \$2,402,820

SECTION 10.105.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding prevention and education services

Personal Service
From General Revenue Fund \$25,973

For prevention and education services 4,288,996
Personal Service 360,406
Expense and Equipment 102,363
From Federal Funds 4,751,765

For prevention and education services
Expense and Equipment
From Healthy Families Trust Fund 300,000

For tobacco retailer education
Provided that no person under the age of eighteen shall be used as
either an employee or a volunteer for the purposes of enforcement
of tobacco laws
Personal Service 173,250
Expense and Equipment 103,622
From Federal Funds 276,872

For a state incentive program
Personal Service 131,043
Expense and Equipment 2,821,412
From Federal Funds 2,952,455

For Community 2000 Team programs
From General Revenue Fund 502,732
From Federal Funds 2,059,693
From Health Initiatives Fund 82,148

For school-based alcohol and drug abuse prevention programs
From Federal Funds 1,227,356
Total (Not to exceed 15.76 F.T.E.). \$12,178,994

SECTION 10.110.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse
For the purpose of funding the treatment of alcohol and drug abuse

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed between
personal service and expense and equipment \$3,826,282
For treatment of alcohol and drug abuse 28,427,460

From General Revenue Fund.	32,253,742
For treatment of adolescents with co-occurring addiction and mental illness	
From General Revenue Fund.	555,427
From Health Initiatives Fund	5,445
From Federal Funds	469,130
For treatment of alcohol and drug abuse.	41,560,218E
Personal Service.	783,672
Expense and Equipment.	646,412
From Federal Funds	42,990,302
For treatment of drug and alcohol abuse with the Access to Recovery Grant	
For treatment services	6,589,796
Personal Service.	156,900
Expense and Equipment.	693,550
From Federal Funds	7,440,246
For treatment of alcohol and drug abuse	
From Inmate Revolving Fund	2,070,084
From Healthy Families Trust Fund	1,985,637
From Health Initiatives Fund	6,163,181
From DMH Local Tax Matching Fund.	708,343
For a pilot project to extend treatment services for methamphetamine treatment	
From Inmate Revolving Fund.	900,000
Total (Not to exceed 54.81 F.T.E.).	\$95,541,537

SECTION 10.115. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse	
For the purpose of funding treatment of compulsive gambling.	\$454,615
Personal Service.	39,936
Expense and Equipment.	5,194
From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.).	\$499,745

SECTION 10.120. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse	
For the purpose of funding the Substance Abuse Traffic Offender Program	
From Federal Funds.	\$427,864
From Health Initiatives Fund	241,466
From Mental Health Earnings Fund	3,931,651E
Total (Not to exceed 5.48 F.T.E.).	\$4,600,981

SECTION 10.200. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services	
For the purpose of funding division administration	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$799,246
Personal Service.	604,287

Expense and Equipment.	366,601
From Federal Funds	970,888

Expense and Equipment	
From Health Care Technology Fund	3,825,000

For suicide prevention initiatives	
Personal Service.	24,892
Expense and Equipment.	620,401
From Federal Funds.	645,293
Total (Not to exceed 24.60 F.T.E.).	\$6,240,427

SECTION 10.205.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding the PRN nursing and direct care staff pool,
provided that staff paid from the PRN nursing and direct care
staff pool will only incur fringe benefit costs applicable to
part-time employment

Personal Service and/or Expense and Equipment	
From General Revenue Fund (Not to exceed 74.12 F.T.E.).	\$3,428,197

SECTION 10.210.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding adult community programs

 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund.	\$656,841
From Federal Funds	2,008,633

For the purpose of funding adult community programs, provided that up to
ten percent (10%) of this appropriation may be used for services for
youth, and provided that at least \$650,000 General Revenue be spent
on mental health services to cover the spouses and children of active
and past duty veterans, including deceased veterans of the past and
current conflicts

From General Revenue Fund.	84,808,260
From Federal Funds	81,483,016E
From Mental Health Earnings Fund	223,740
From DMH Local Tax Matching Fund	241,291E

For the purpose of funding law enforcement and judicial training

From Mental Health Trust Fund.	266,235
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For the provision of mental health services and support services to other agencies

From Mental Health Interagency Payments Fund	377,050
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For the purpose of funding programs for the homeless mentally ill

From General Revenue Fund.	496,047
From Federal Funds.	800,000
Total (Not to exceed 9.80 F.T.E.).	\$171,361,113

SECTION 10.215.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of reimbursing attorneys, physicians, and counties for
 fees in involuntary civil commitment procedures..... \$774,099E
 For distribution through the Office of Administration to counties pursuant
 to Section 56.700, RSMo. 132,550
 From General Revenue Fund..... \$906,649

SECTION 10.220.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding forensic support service
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund \$800,434
 From Federal Funds. 4,094
 Total (Not to exceed 17.39 F.T.E.)..... \$804,528

SECTION 10.225.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding youth community programs
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund..... \$311,257
 From Federal Funds 1,220,074

For the purpose of funding youth community programs, provided that up
 to ten percent (10%) of this appropriation may be used for
 services for adults
 From General Revenue Fund..... 22,837,439
 From Federal Funds 21,018,021E
 From DMH Local Tax Matching Fund. 390,270E
 Total (Not to exceed 7.31 F.T.E.)..... \$45,777,061

SECTION 10.230.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding services for children who are clients of
 the Department of Social Services
 Expense and Equipment
 From Mental Health Interagency Payments Fund. \$156,135

SECTION 10.235.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purchase and administration of new medication therapies
 Expense and Equipment
 From General Revenue Fund..... \$11,005,524
 From Federal Funds. 916,243
 Total. \$11,921,767

SECTION 10.240.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services

For the purpose of funding costs for forensic clients resulting from
 loss of benefits under provisions of the Social Security Domestic
 Employment Reform Act of 1994
 Expense and Equipment
 From General Revenue Fund. \$878,548

SECTION 10.300. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Fulton State Hospital

Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund. \$51,241,832
 From Federal Funds 403,546

For the provision of support services to other agencies

Expense and Equipment

From Mental Health Interagency Payments Fund 250,000

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining
 funds being used to pay overtime to any other state employees

From General Revenue Fund. 1,641,681
 Total (Not to exceed 1,261.38 F.T.E.). \$53,537,059

SECTION 10.305. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund. \$11,831,941

Personal Service. 577,400

Expense and Equipment. 105,903

From Federal Funds 683,303

For psychiatric services

From Mental Health Trust Fund. 447,558

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining

funds being used to pay overtime to any other state employees	
From General Revenue Fund.....	257,350
From Federal Funds.....	11,082
Total (Not to exceed 311.30 F.T.E.).....	\$13,231,234

SECTION 10.310.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding St. Louis Psychiatric Rehabilitation Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund.....	\$19,327,406
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Personal Service.....	319,538
Expense and Equipment.....	93,210
From Federal Funds	412,748

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo will be paid first with any remaining
 funds being used to pay overtime to any other state employees

From General Revenue Fund.....	394,414
From Federal Funds.....	917
Total (Not to exceed 521.49 F.T.E.).....	\$20,135,485

SECTION 10.315.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southwest Missouri Psychiatric Rehabilitation Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund	\$2,927,355
From Federal Funds	193,761

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining
 funds being used to pay overtime to any other state employees

From General Revenue Fund.....	18,744
Total (Not to exceed 76.05 F.T.E.).....	\$3,139,860

SECTION 10.320.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Metropolitan St. Louis Psychiatric Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. \$14,664,583

Personal Service

From Federal Funds 289,680

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. 89,394

From Federal Funds. 1,126

Total (Not to exceed 340.03 F.T.E.). \$15,044,783

SECTION 10.325.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Mid-Missouri Mental Health Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. \$8,135,501

Personal Service

From Federal Funds 406,263

For services for children and youth

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund. 2,008,297

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund. 156,503

From Federal Funds. 5,973

Total (Not to exceed 221.71 F.T.E.). \$10,712,537

SECTION 10.330.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southeast Missouri Mental Health Center

Personal Service and/or Expense and Equipment, provided that not

more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment and not more than twenty percent (20%) flexibility is allowed between Southeast Mental Health Center and Southeast Mental Health Center - Missouri Sexual Offender Treatment Center

From General Revenue Fund.....	\$20,122,906
From Federal Funds	337,665

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund.....	336,332
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For the purpose of funding Southeast Mental Health Center - Missouri Sexual Offender Treatment Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment and not more than twenty percent (20%) flexibility is allowed between Southeast Mental Health Center - Missouri Sexual Offender Treatment Center and Southeast Mental Health Center

From General Revenue Fund.....	13,277,147
From Federal Funds	35,241

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund.....	165,726
Total (Not to exceed 851.97 F.T.E.).....	\$34,275,017

SECTION 10.335.— To the Board of Public Buildings

For the Department of Mental Health

For operation and maintenance of the Southeast Missouri Mental Health Center
Expense and Equipment

From General Revenue Fund.....	\$55,593
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SECTION 10.340.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Western Missouri Mental Health Center
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	\$17,624,595
From Federal Funds	731,201

For the Western Missouri Mental Health Center and/or contracting for children's services in the Northwest Region
 Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	1,065,578
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For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund.	509,177
Total (Not to exceed 466.89 F.T.E.).	<u>\$19,930,551</u>

SECTION 10.350.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Hawthorn Children's Psychiatric Hospital
 Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	\$6,684,970
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Personal Service.	1,528,169
Expense and Equipment.	<u>191,894</u>
From Federal Funds	1,720,063

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of such overtime payments. Non-exempt state employees identified by Section 105.935, RSMo, will be paid first with any remaining funds being used to pay overtime to any other state employees

From General Revenue Fund.	123,515
From Federal Funds.	<u>7,116</u>
Total (Not to exceed 214.14 F.T.E.).	<u>\$8,535,664</u>

SECTION 10.355.— To the Department of Mental Health

For the purpose of funding Cottonwood Residential Treatment Center
 Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	\$1,275,626
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Personal Service.	1,677,345
Expense and Equipment.	<u>350,000</u>
From Federal Funds	2,027,345

For the purpose of paying overtime to state employees and/or paying otherwise authorized personal service expenditures in lieu of

such overtime payments. Non-exempt state employees identified
by Section 105.935, RSMo, will be paid first with any remaining
funds being used to pay overtime to any other state employees

From General Revenue Fund.....	55,931
From Federal Funds.	<u>1,103</u>
Total (Not to exceed 87.51 F.T.E.).....	\$3,360,005

SECTION 10.400.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding division administration
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$1,961,133
Personal Service.	303,009
Expense and Equipment.....	<u>63,881</u>
From Federal Funds.	<u>366,890</u>
Total (Not to exceed 39.00 F.T.E.).....	\$2,328,023

SECTION 10.405.— To the Department of Mental Health
For the purpose of funding cost associated with the Division of
Mental Retardation-Developmental Disabilities to achieve
personnel standards at habilitation centers
Personal Service and/or Expense and Equipment

From General Revenue Fund.....	\$5,798,461
To pay the state operated ICF/MR provider tax	
From General Revenue Fund.....	<u>4,355,142</u>
Total (Not to exceed 97.70 F.T.E.).....	\$10,153,603

SECTION 10.410.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
Provided that residential services for non-MO HealthNet eligibles
shall not be reduced below the prior year expenditures as long as
the person is evaluated to need the services
For the purpose of funding community programs

From General Revenue Fund.....	\$123,684,651
From Federal Funds	267,242,965E

For the purpose of funding community programs
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	691,403
Personal Service.	184,788
Expense and Equipment.....	<u>41,776</u>
From Federal Funds	226,564

For consumer and family directed supports/in-home services/choices for families
From General Revenue Fund..... 18,089,100

For the purpose of funding programs and in-home family directed services for
persons with autism and their families
From General Revenue Fund. 10,446,176

For services for children who are clients of the Department of Social Services
From Mental Health Interagency Payments Fund 3,443,549

For SB 40 Board Tax Funds to be used as match for MO HealthNet
initiatives for clients of the division
From DMH Local Tax Matching Fund. 12,853,770E
Total (Not to exceed 16.42 F.T.E.). \$436,678,178

SECTION 10.415.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding community support staff

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund. \$7,282,297

Personal Service. 11,151,353

Expense and Equipment. 685,150

From Federal Funds. 11,836,503

Total (Not to exceed 452.92 F.T.E.). \$19,118,800

SECTION 10.420.— There is transferred out of the State Treasury from

the General Revenue Fund to the Mental Health Housing Trust Fund

From General Revenue Fund. \$277,867

SECTION 10.425.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For projects at state habilitation centers and residential facilities

From Mental Health Housing Trust Fund. \$301,867

SECTION 10.430.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding developmental disabilities services

Personal Service. \$372,505

Expense and Equipment. 1,187,593

From Federal Funds (Not to exceed 7.98 F.T.E.). \$1,560,098

SECTION 10.440.— There is transferred out of the State Treasury from the

General Revenue Fund to the ICF/MR Reimbursement Allowance Fund

From General Revenue Fund. \$443,483E

SECTION 10.445.— There is transferred out of the State Treasury from

the ICF/MR Reimbursement Allowance Fund to the General Revenue

Fund as a result of recovering the ICF/MR Reimbursement

Allowance Fund

From ICF/MR Reimbursement Allowance Fund. \$4,798,625E

There is transferred out of the State Treasury from the ICF/MR

Reimbursement Allowance Fund to Federal Funds

From ICF/MR Reimbursement Fund	<u>2,743,740E</u>
Total	<u>\$7,542,365</u>

SECTION 10.500.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Albany Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$862,266
From Federal Funds.	<u>16,241</u>
Total (Not to exceed 19.99 F.T.E.).	<u>\$878,507</u>

SECTION 10.505.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Central Missouri Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$996,807
From Federal Funds.	<u>47,836</u>
Total (Not to exceed 28.91 F.T.E.).	<u>\$1,044,643</u>

SECTION 10.510.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Hannibal Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$1,025,630
From Federal Funds.	<u>61,327</u>
Total (Not to exceed 22.00 F.T.E.).	<u>\$1,086,957</u>

SECTION 10.515.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Joplin Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund (Not to exceed 27.14 F.T.E.).	\$1,280,684
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SECTION 10.520.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Kansas City Regional Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$1,738,439
From Federal Funds.	<u>81,643</u>
Total (Not to exceed 37.87 F.T.E.).	<u>\$1,820,082</u>

SECTION 10.525.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Kirksville Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 16.01 F.T.E.) \$767,008

SECTION 10.530.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Poplar Bluff Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 20.70 F.T.E.) \$891,448

SECTION 10.535.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Rolla Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$892,180
 From Federal Funds. 127,698
 Total (Not to exceed 26.50 F.T.E.) \$1,019,878

SECTION 10.540.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Sikeston Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 21.55 F.T.E.) \$978,661

SECTION 10.545.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Springfield Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund (Not to exceed 26.88 F.T.E.) \$1,266,180

SECTION 10.550.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the St. Louis Regional Center
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$3,197,323
 From Federal Funds. 92,395
 Total (Not to exceed 85.80 F.T.E.) \$3,289,718

SECTION 10.555.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Bellefontaine Habilitation Center
 Personal Service and/or Expense and Equipment provided that not
 more than fifteen percent (15%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund..... \$15,772,422
 From Federal Funds .. 663,815

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining
 funds being used to pay overtime to any other state employees
 From General Revenue Fund..... 1,551,673
 From Federal Funds. 38,167
 Total (Not to exceed 478.29 F.T.E.)..... \$18,026,077

SECTION 10.560.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Higginsville Habilitation Center
 Personal Service and/or Expense and Equipment, provided that not
 more than fifteen percent (15%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund..... \$9,780,426
 From Federal Funds .. 281,677

For Northwest Community Services

Personal Service and/or Expense and Equipment, provided that not
 more than fifteen percent (15%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund..... 2,617,663
 From Federal Funds .. 749,421

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining
 funds being used to pay overtime to any other state employees
 From General Revenue Fund..... 496,722
 From Federal Funds. 90,992
 Total (Not to exceed 476.79 F.T.E.)..... \$14,016,901

SECTION 10.565.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Marshall Habilitation Center
 Personal Service and/or Expense and Equipment, provided that not
 more than fifteen percent (15%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund.	\$21,689,052
From Federal Funds	2,237,597

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining
 funds being used to pay overtime to any other state employees

From General Revenue Fund.	874,607
From Federal Funds.	53,935
Total (Not to exceed 816.65 F.T.E.).	\$24,855,191

SECTION 10.570.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Nevada Habilitation Center
 Personal Service and/or Expense and Equipment, provided that not
 more than fifteen percent (15%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund.	\$9,662,382
From Federal Funds	3,104

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of
 such overtime payments. Non-exempt state employees identified
 by Section 105.935, RSMo, will be paid first with any remaining
 funds being used to pay overtime to any other state employees

From General Revenue Fund.	38,622
Total (Not to exceed 297.11 F.T.E.).	\$9,704,108

SECTION 10.575.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities Treatment Center

Personal Service and/or Expense and Equipment, provided that not
 more than fifteen percent (15%) may be spent on the Purchase of
 Community Services, including transitioning clients to the
 community or other state-operated facilities, and that not more
 than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment

From General Revenue Fund.	\$19,986,507
From Federal Funds	3,445

For the purpose of paying overtime to state employees and/or paying
 otherwise authorized personal service expenditures in lieu of

such overtime payments. Non-exempt state employees identified
by Section 105.935, RSMo, will be paid first with any remaining
funds being used to pay overtime to any other state employees

From General Revenue Fund.....	644,160
Total (Not to exceed 675.88 F.T.E.).....	\$20,634,112

SECTION 10.580.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding Southeast Missouri Residential Services
Personal Service and/or Expense and Equipment, provided that not
more than fifteen percent (15%) may be spent on the Purchase of
Community Services, including transitioning clients to the
community or other state-operated facilities, and that not more
than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund.....	\$5,820,913
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For the purpose of paying overtime to state employees and/or paying
otherwise authorized personal service expenditures in lieu of
such overtime payments. Non-exempt state employees identified
by Section 105.935, RSMo, will be paid first with any remaining
funds being used to pay overtime to any other state employees

From General Revenue Fund.....	329,123
Total (Not to exceed 206.48 F.T.E.).....	\$6,150,036

SECTION 10.600.— To the Department of Health and Senior Services
For the Office of the Director
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.....	\$1,199,846
From Federal Funds.....	2,137,472
Total (Not to exceed 57.58 F.T.E.).....	\$3,337,318

SECTION 10.604.— To the Department of Health and Senior Services
For the purpose of funding an enhanced case management system
Expense and Equipment

From Healthcare Technology Fund.....	\$1,159,034
From Federal Funds	1,159,034

For the purpose of funding an immunization registry
Expense and Equipment

From Healthcare Technology Fund.....	400,000
Total.....	\$2,718,068

SECTION 10.605.— To the Department of Health and Senior Services
For the Division of Administration
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$792,222

Personal Service

From Federal Funds 2,374,849

From Missouri Public Health Services Fund. 129,417

Expense and Equipment

From Federal Funds and Other Funds. 3,338,011

Total (Not to exceed 77.73 F.T.E.). \$6,634,499

SECTION 10.610.— There is transferred out of the State Treasury from
the Health Initiatives Fund to the Health Access Incentive Fund

From Health Initiatives Fund. \$3,241,003

SECTION 10.615.— To the Department of Health and Senior Services
For the Division of Administration

For the purpose of funding the payment of refunds set off against
debts in accordance with Section 143.786, RSMo

From Debt Offset Escrow Fund. \$15,000E

SECTION 10.620.— To the Department of Health and Senior Services
For the Division of Administration

For the purpose of making refund payments

From General Revenue Fund. \$16,414E

From Federal Funds and Other Funds 44,736E

Total. \$61,150

SECTION 10.625.— To the Department of Health and Senior Services
For the Division of Administration

For the purpose of receiving and expending grants, donations,
contracts, and payments from private, federal, and other
governmental agencies which may become available between
sessions of the general assembly provided that the general
assembly shall be notified of the source of any new funds and
the purpose for which they shall be expended, in writing, prior
to the use of said funds

From Federal Funds. \$3,000,001E

From Department of Health - Donated Fund. 450,000E

Total. \$3,450,001

SECTION 10.630.— To the Department of Health and Senior Services
For the Division of Administration

For contributions from federal and other sources that are deposited in the
State Treasury for use by the Department of Health and Senior Services
to furnish aid and relief pursuant to Section 192.326, RSMo

From DHSS Disaster Fund. \$1E

SECTION 10.635.— To the Department of Health and Senior Services
For the Division of Community and Public Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed

between personal service and expense and equipment	
From General Revenue Fund.....	\$8,602,794
From Federal Funds	20,482,744
Personal Service	
From Health Initiatives Fund	49,242
From Health Access Incentive Fund.....	94,028
Expense and Equipment	
From Governor's Council on Physical Fitness Institution Gift Trust Fund.....	50,000
Personal Service.	72,526
Expense and Equipment.....	<u>16,900</u>
From Professional and Practical Nursing Student Loan and Nurse Loan	
Repayment Fund.....	89,426
Personal Service.	196,479
Expense and Equipment.....	<u>68,532</u>
From Hazardous Waste Fund.	265,011
Personal Service.	108,540
Expense and Equipment.....	<u>82,010</u>
From Organ Donor Program Fund.....	190,550
Personal Service.	325,199
Expense and Equipment.....	<u>116,507</u>
From Missouri Public Health Services Fund.	441,706
Personal Service.	360,142
Expense and Equipment.....	<u>275,000</u>
From Department of Health and Senior Services Document Services Fund	635,142
Personal Service.	174,182
Expense and Equipment.....	<u>633,089</u>
From Department of Health - Donated Fund	807,271
Personal Service.	73,721
Expense and Equipment.....	<u>28,756</u>
From Putative Father Registry Fund.....	<u>102,477</u>
Total (Not to exceed 612.86 F.T.E.).....	\$31,810,391

SECTION 10.640.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding core public health functions and related expenses

From General Revenue Fund..... \$9,027,772

SECTION 10.645.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding community health programs and related expenses

From General Revenue Fund..... \$10,918,910

From Federal Funds 43,259,591 |

From Health Initiatives Fund

 6,864,564 |

From Organ Donor Program Fund.	100,000
From C & M Smith Memorial Endowment Fund	35,000
From Crippled Children Fund.	75,000
From Missouri Lead Abatement Loan Fund	76,000
From Missouri Public Health Services Fund.	276,750
From Head Injury Fund.	852,400
From Healthy Families Trust Fund	200,000
From Blindness Education, Screening and Treatment Program Fund	99,000
Total.	<u>\$62,757,215</u>

SECTION 10.650.— To the Department of Health and Senior Services
For the Division of Community and Public Health

For the purpose of funding supplemental nutrition programs

From General Revenue Fund.	\$32,100
From Federal Funds	<u>156,891,116E</u>
Total.	<u>\$156,923,216</u>

SECTION 10.655.— To the Department of Health and Senior Services
For the Division of Community and Public Health

For the purpose of funding alternatives to abortion services for women at or below 200 percent of Federal Poverty Level, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing utilities; educational services; food, clothing, and supplies relating to pregnancy, newborn care, and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provisions and delivery of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any family planning services. None of these funds shall be expended to perform or induce, assisting the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions

From General Revenue Fund.	\$1,949,512
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SECTION 10.660.— To the Department of Health and Senior Services
For the Division of Community and Public Health

For the purpose of funding the Primary Care Resource Initiative Program (PRIMO), Financial Aid to Medical Students, Area Health Education Centers, and Loan Repayment Programs

From General Revenue Fund.	\$3,400,000
From Federal Funds	274,446
From Health Access Incentive Fund.	<u>3,021,500</u>

From Department of Health - Donated Fund	839,525
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund.	499,752
From Health Care Access Fund	1E
For a health care workforce study	
From Health Access Incentive Fund.	250,000
Total.	\$8,285,224

SECTION 10.665.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the Office of Minority Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	\$745,256
From Federal Funds	236,890

For Minority Health

Expense and Equipment and the purchase of services for the
purpose of funding programs within Minority Health

From General Revenue Fund.	165,707
From Federal Funds.	45,045
Total (Not to exceed 8.33 F.T.E.).	\$1,192,898

SECTION 10.670.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the Center for Emergency Response and Terrorism

Personal Service.	\$3,148,731
Expense and Equipment and Program Distribution.	20,179,535

From Federal Funds (Not to exceed 63.01 F.T.E.).	\$23,328,266
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SECTION 10.675.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding the State Public Health Laboratory

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	\$2,757,997
From Federal Funds	1,802,215
From Other Funds.	5,085,093
Total (Not to exceed 98.70 F.T.E.).	\$9,645,305

***SECTION 10.678.**— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding the Even de Mello program which will
reimburse families for expenses incurred while caring for
children with special health care needs, funding to be
contingent upon passage of HB 1516

From General Revenue Fund.	\$62,914
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*I hereby veto \$62,914 General Revenue for the Evan De Mello Program. This funding was contingent on the passage of HB 1516, which was not enacted during this session.

Said section is vetoed in its entirety from \$62,914 to \$0 from General Revenue Fund.

MATT BLUNT, GOVERNOR

SECTION 10.680.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment

From General Revenue Fund.	\$8,868,114
From Federal Funds.	<u>10,428,641</u>
Total (Not to exceed 481.65 F.T.E.).	\$19,296,755

SECTION 10.685.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding non-MO HealthNet reimbursable senior and disability programs, provided that one hundred percent (100%) flexibility is allowed between the non-MO HealthNet reimbursable senior and disability programs general revenue appropriation and the non-MO HealthNet, consumer-directed care program general revenue appropriation

From General Revenue Fund.	\$8,391,269
From Federal Funds	1,667,028

For the purpose of funding non-MO HealthNet, consumer directed in-home services

From General Revenue Fund.	<u>2,328,296</u>
Total.	\$12,386,593

SECTION 10.688— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of providing naturalization assistance to refugees and/or legal immigrants who: have resided in Missouri more than five years, are unable to benefit or attend classroom instruction, and who require special assistance to successfully attain the requirements to become a citizen. Services may include direct tutoring, assistance with identifying and completing appropriate waiver requests to the Immigration and Customs Enforcement agency, and facilitating proper documentation. The department shall award a contract under this section to a qualified not for profit organization which can demonstrate its ability to work with this population and does not currently receive funding through refugee services programs administered by the state. A report shall be compiled for the general assembly evaluating the program's effectiveness in helping senior refugees and immigrants in establishing citizenship and their ability to qualify individuals for Medicare

From General Revenue Fund.	\$200,000
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SECTION 10.690.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services

For the purpose of funding respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, children's waiver services, home-delivered meals, and other related services under the MO HealthNet fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those MO HealthNet dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 19 CSR 30 81.030 and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to met their unmet needs whichever option they choose. This language does not create any entitlements not established by statute. Upon receipt of a properly completed referral for MO HealthNet funded home and community-based care containing a nurse assessment or physician's order, the department shall review the recommendations regarding services and process the referral within fifteen (15) business days. When information contained in the referral is sufficient to establish eligibility for MO HealthNet funded long-term care and determine the level of service need as required pursuant to state and federal regulations, the department shall prior- authorize Home and Community-based services and arrange for the provision of services and the in-home provider shall be reimbursed for one authorized nurse visit to complete the nurse assessment. For authorized referrals, MO HealthNet reimbursement for personal care benefits shall be effective the date of the assessment or physician's order, and MO HealthNet reimbursement for Waiver services shall be effective the date the state reviews and approves the care plan. At such time the state shall notify the referring entity. The department shall notify the referring entity if additional information is required to process the referral within five (5) business days of receiving the referral. The in-home provider shall be reimbursed a minimum of one (1) and no more than two (2) authorized nurse visits to make a properly completed referral. When information is insufficient or the proposed care plan requires additional evaluation by state staff that is not obtainable from the referring entity, the department shall inform the provider and contact the individual to schedule an in-home assessment to be conducted by the state staff within thirty (30) days

From General Revenue Fund.	\$159,590,239
From Federal Funds.	<u>271,735,279</u>
Total.	\$431,325,518

SECTION 10.695.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Alzheimer's grants

From General Revenue Fund.	\$539,564
From Federal Funds.	<u>265,670</u>
Total.	\$805,234

SECTION 10.700.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Home and Community Services grants,

including funding for meals to be distributed to each Area

Agency on Aging in proportion to the actual number of meals

served during the preceding fiscal year, provided that at least

\$500,000 of existing General Revenue be used for non-MO

HealthNet meals to be distributed to each Area Agency on Aging

in proportion to the actual number of meals served during the

preceding fiscal year and also including \$2,275,197 for needs

of the Area Agencies on Aging in FY 2009 as approved by the

Department

From General Revenue Fund.	\$10,901,894
From Federal Funds	31,536,227E
From Elderly Home-Delivered Meals Trust Fund.. . . .	<u>200,000</u>
Total.	\$42,638,121

SECTION 10.705.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For distributions to Area Agencies on Aging pursuant to the Older

Americans Act and related programs

From General Revenue Fund.	\$1,608,681
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SECTION 10.706.— To the Department of Health and Senior Services

For the Division of Senior Disability Services

For the purpose of funding operational costs for the senior nutrition center

located in the 800 block of West Union Street in Pacific in Franklin

County

From General Revenue Fund.	\$25,000
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SECTION 10.710.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Naturally Occurring Retirement Communities

From General Revenue Fund.	\$150,000
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SECTION 10.715.— To the Department of Health and Senior Services

For the Division of Regulation and Licensure

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not

more than twenty-five percent (25%) flexibility is allowed

between personal service and expense and equipment

From General Revenue Fund.	\$11,248,958
From Federal Funds	11,958,957
From Nursing Facility Quality of Care Fund	1,992,120

Personal Service.	72,171
Expense and Equipment.	<u>11,450</u>
From Health Access Incentive Fund.	83,621

Personal Service.	61,387
Expense and Equipment.	<u>13,560</u>
From Mammography Fund.	74,947

Personal Service.	206,785
Expense and Equipment.	<u>57,561</u>
From Early Childhood Development, Education and Care Fund.	<u>264,346</u>
Total (Not to exceed 511.74 F.T.E.).	\$25,622,949

SECTION 10.720.— To the Department of Health and Senior Services

For the Division of Regulation and Licensure

For the purpose of funding activities to improve the quality of childcare,
 increase the availability of early childhood development programs,
 before- and after-school care, in-home services for families with
 newborn children, and for general administration of the program

From Federal Funds.	\$711,675
From Early Childhood Development, Education and Care Fund.	<u>728,740</u>
Total.	\$1,440,415

SECTION 10.725.— To the Department of Health and Senior Services

For the Division of Regulation and Licensure

For the purpose of funding program operations and support for the
 Missouri Health Facilities Review Committee

Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment

From General Revenue Fund (Not to exceed 2.80 F.T.E.).	\$163,863
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DEPARTMENT OF MENTAL HEALTH TOTALS

General Revenue Fund.	\$616,597,388
Federal Funds.	500,992,156
Other Funds.	<u>41,934,883</u>
Total.	\$1,159,524,427

DEPARTMENT OF HEALTH AND SENIOR SERVICES TOTALS

General Revenue Fund.	\$243,670,908
Federal Funds.	586,115,078
Other Funds.	<u>25,440,709</u>
Total.	\$855,226,695

Approved June 27, 2008

HB 2011 [CCS SCS HCS HB 2011]

APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES, OFFICE OF ADMINISTRATION.

AN ACT To appropriate money for the expenses, grants, and distributions of the Department of Social Services and the Office of Administration and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and provided that no funds shall be spent on health care delivered by any managed care company unless the Department of Social Services has received assurance in writing from such managed care company that any physician or dental rate increase contained herein shall be passed on to the physicians or dentists providing such health care, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 11.005.— To the Department of Social Services

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	\$486,289
Annual salary adjustment in accordance with Section 105.005, RSMo.	3,005
From General Revenue Fund.	489,294

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From Federal Funds	13,879

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment.	63,571
Annual salary adjustment in accordance with Section 105.005, RSMo.	312
From Child Support Enforcement Collections Fund.	63,883
Total (Not to exceed 8.00 F.T.E.).	\$567,056

SECTION 11.010.— To the Department of Social Services

For the Office of Administration

For administration of central mail personnel and resources by the

Division of General Services

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$335,312
From Federal Funds	29,151
From Child Support Enforcement Collections Fund.	10,713
Total (Not to exceed 10.00 F.T.E.).	\$375,176

SECTION 11.015.— To the Department of Social Services

For the Office of the Director

For the purpose of receiving and expending grants, donations,
contracts, and payments from private, federal, and other
governmental agencies which may become available between
sessions of the general assembly provided that the general
assembly shall be notified of the source of any new funds and
the purpose for which they shall be expended, in writing, prior
to the use of said funds

From Federal Funds and Other Funds.. . . . \$10,954,958E

SECTION 11.020.— To the Department of Social Services

For the Office of the Director

For the Human Resources Center

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.. . . . \$388,705

From Federal Funds. 227,144

Total (Not to exceed 13.52 F.T.E.).. . . . \$615,849

SECTION 11.025.— To the Department of Social Services

For the Office of the Director

For the purpose of funding field and line training

Expense and Equipment

From General Revenue Fund.. . . . \$172,781

From Federal Funds. 131,840

Total. \$304,621

SECTION 11.030.— To the Department of Social Services

For Administrative Services

For the Division of Finance and Administrative Services

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.. . . . \$2,759,234

From Federal Funds 1,253,528

From Department of Social Services Administrative Trust Fund 4,283

From Child Support Enforcement Collections Fund.. . . . 50,136

For the purpose of funding the centralized inventory system, for
reimbursable goods and services provided by the department, and
for related equipment replacement and maintenance expenses

From Department of Social Services Administrative Trust Fund. 5,447,752

Total (Not to exceed 103.25 F.T.E.).. . . . \$9,514,933

SECTION 11.035.— To the Department of Social Services

For Administrative Services

For the Division of Finance and Administrative Services

For the payment of fees to contractors who engage in revenue
maximization projects on behalf of the Department of Social Services

From Federal Funds. \$1,000,000E

SECTION 11.040.— To the Department of Social Services
 For Administrative Services
 For the Division of Finance and Administrative Services
 For the purpose of funding the receipt and disbursement of refunds
 and incorrectly deposited receipts to allow the over-collection
 of accounts receivables to be paid back to the recipient
 From Federal Funds and Other Funds. \$2,500,000E

SECTION 11.045.— To the Department of Social Services
 For Administrative Services
 For the Division of Finance and Administrative Services
 For the purpose of funding payments to counties toward the care and
 maintenance of each delinquent or dependent child as provided in
 Chapter 211.156, RSMo
 From General Revenue Fund. \$3,302,000

SECTION 11.050.— To the Department of Social Services
 For Administrative Services
 For the purpose of funding the Division of Legal Services
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$2,106,054
 From Federal Funds 3,788,282
 From Third Party Liability Collections Fund. 668,140
 From Child Support Enforcement Collections Fund. 166,003
 Total (Not to exceed 141.97 F.T.E.). \$6,728,479

SECTION 11.055.— To the Department of Social Services
 For the Family Support Division
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$1,159,869
 From Federal Funds 10,902,154
 From Child Support Enforcement Collections Fund. 1,497,550

Expense and Equipment
 From Third Party Liability Collections Fund. 134,577
 Total (Not to exceed 175.49 F.T.E.). \$13,694,150

SECTION 11.060.— To the Department of Social Services
 For the Family Support Division
 For the income maintenance field staff and operations
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty-five percent (25%) flexibility is allowed
 between personal service and expense and equipment
 From General Revenue Fund. \$27,187,083
 From Federal Funds 65,732,138
 From Child Support Enforcement Collections Fund. 1,598,928
 From Health Initiatives Fund. 792,579
 Total (Not to exceed 2,850.74 F.T.E.). \$95,310,728

SECTION 11.065.— To the Department of Social Services

For the Family Support Division

For income maintenance and child support staff training

From General Revenue Fund..... \$361,108

From Federal Funds. 164,239

Total. \$525,347

SECTION 11.070.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the electronic benefit transfers (EBT)

system to reduce fraud, waste, and abuse

Expense and Equipment

From General Revenue Fund..... \$3,754,203

From Federal Funds. 3,341,516

Total. \$7,095,719

SECTION 11.075.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the receipt of funds from the Polk County

and Bolivar Charitable Trust for the exclusive benefit and use

of the Polk County office

From Family Support and Children's Divisions Donations Fund. \$10,000

SECTION 11.080.— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractor, hardware, and other costs

associated with planning, development, and implementation of a

Family Assistance Management Information System (FAMIS)

From General Revenue Fund..... \$2,262,971

From Federal Funds. 3,788,405

Total. \$6,051,376

SECTION 11.085.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Community Partnerships

Personal Service

From General Revenue Fund..... \$93,124

For grants and contracts to Community Partnerships and other

community initiatives and related expenses

From General Revenue Fund..... 727,500

From Federal Funds .. 7,483,799

For Missouri Mentoring Partnership

For the purpose of funding a youth mentoring program. Two hundred

thousand dollars (\$200,000) shall be used for the purpose of funding

a youth program through an established local community-based

not-for-profit agency, which shall work with a faith-based organization

with a physical presence in St. Louis County

From General Revenue Fund..... 806,781

From Federal Funds .. 778,143

For the purpose of funding a program for adolescent boys with the goal
of preventing teen pregnancies
From Federal Funds 300,000

For the purpose of funding a mentoring program specifically targeting the
children of parents who are incarcerated
From General Revenue Fund. 400,000
From Federal Funds. 100,000
Total (Not to exceed 3.00 F.T.E.). \$10,689,347

SECTION 11.090.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Family Nutrition Education Program
From Federal Funds. \$9,294,560

SECTION 11.095.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the payment of Temporary Assistance for
Needy Families benefits, and for a transitional benefit and for
community work support programs provided that total funding
herein is sufficient to fund Temporary Assistance for Needy
Families benefits
From General Revenue Fund. \$17,287,706
From Federal Funds 113,745,760E
Total. \$131,033,466

SECTION 11.100.— To the Department of Social Services

For the Family Support Division

For the purpose of funding supplemental payments to aged or disabled persons
From General Revenue Fund. \$88,000

SECTION 11.105.— To the Department of Social Services

For the Family Support Division

For the purpose of funding nursing care payments to aged, blind, or
disabled persons, and for personal funds to recipients of
Supplemental Nursing Care payments as required by Section
208.030, RSMo
From General Revenue Fund. \$25,807,581

SECTION 11.110.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Blind Pension and supplemental payments to
blind persons
From Blind Pension Fund. \$27,295,396

SECTION 11.115.— To the Department of Social Services

For the Family Support Division

For the purpose of funding benefits and services as provided by the
Indochina Migration and Refugee Assistance Act of 1975 as amended
From Federal Funds. \$3,808,853

SECTION 11.120.— To the Department of Social Services

For the Family Support Division

For the purpose of funding community services programs provided by
 Community Action Agencies, including programs to assist the homeless,
 under the provisions of the Community Services Block Grant
 From Federal Funds. \$19,144,171

SECTION 11.125.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding grants for local initiatives to assist the homeless
 From Federal Funds. \$500,000

SECTION 11.130.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding the Emergency Shelter Grant Program
 From Federal Funds. \$1,340,000

SECTION 11.135.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding the Surplus Food Distribution Program and the
 receipt and disbursement of Donated Commodities Program payments
 From Federal Funds. \$1,175,585

SECTION 11.140.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding the Low Income Home Energy Assistance
 Program
 From Federal Funds (Not to exceed 6.50 F.T.E.). \$40,826,051E

SECTION 11.145.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding services and programs to assist victims of
 domestic violence
 From General Revenue Fund. \$4,750,000
 From Federal Funds. 1,687,653
 Total. \$6,437,653

SECTION 11.150.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding administration of blind services
 Personal Service and/or Expense and Equipment, provided that not
 more than twenty percent (20%) flexibility is allowed between
 personal service and expense and equipment
 From General Revenue Fund. \$85,114
 From Federal Funds 3,798,473
 From Blind Pension Fund. 1,109,455
 Total (Not to exceed 117.87 F.T.E.). \$4,993,042

SECTION 11.155.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding services for the visually impaired
 From Federal Funds. \$6,372,075
 From Blind Pension Fund. 1,737,081
 From Family Support and Children's Divisions Donations Fund. 99,995

From Blindness Education, Screening and Treatment Program Fund.	250,000
Total.	<u>\$8,459,151</u>

***SECTION 11.160.**— To the Department of Social Services

For the Family Support Division

For the purpose of funding Child Support Enforcement field staff and operations

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund.	\$5,752,889
From Federal Funds	26,937,897
From Child Support Enforcement Collections Fund.	<u>6,708,377</u>

For the purpose of mediation services

From Child Support Enforcement Collections Fund.	<u>665,000</u>
Total (Not to exceed 861.24 F.T.E.).	<u>\$40,064,163</u>

*I hereby veto \$50,000 Child Support Enforcement Fund for the purpose of mediation services. These funds were not part of my original budget and were not requested by the department. Changes in federal law have diverted Child Support Enforcement Funds, which have come to states to support child support activities. Until the full impact of these changes is determined, diverting funding from core responsibilities of child support activities to mediation could undermine the child support program.

From \$665,000 to \$615,000 from Child Support Enforcement Collections Fund

From \$40,064,163 to \$40,014,163 in total for the section.

MATT BLUNT, GOVERNOR

SECTION 11.165.— To the Department of Social Services

For the Family Support Division

For the purpose of funding payments to private agencies collecting
child support orders and arrearages

From Federal Funds.	\$990,000E
From Child Support Enforcement Collections Fund.	<u>510,000E</u>
Total.	<u>\$1,500,000</u>

SECTION 11.170.— To the Department of Social Services

For the Family Support Division

For the purpose of funding reimbursement to counties and the City of

St. Louis and contractual agreements with local governments
providing child support enforcement services and for incentive
payments to local governments

From General Revenue Fund.	\$3,277,375
From Federal Funds	10,692,625E
From Child Support Enforcement Collections Fund.	<u>653,000</u>
Total.	<u>\$14,623,000</u>

SECTION 11.175.— To the Department of Social Services

For the Family Support Division

For the purpose of funding payment to the federal government for
reimbursement of federal Temporary Assistance for Needy Families
payments, incentive payments to other states, refunds of bonds, refunds

of support payments or overpayments, and distributions to families	
From Federal Funds.	\$31,500,000E
From Debt Offset Escrow Fund.	<u>9,000,000E</u>
Total.	\$40,500,000

SECTION 11.180.— There is transferred out of the State Treasury from
the Department of Social Services Federal and Other Fund to the
Job Development and Training Fund

From Federal Funds.	\$1,971,614
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SECTION 11.185.— There is transferred out of the State Treasury from
the Debt Offset Escrow Fund to the Department of Social Services
Federal and Other Fund and/or the Child Support Enforcement
Collections Fund

From Debt Offset Escrow Fund.	\$700,000
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SECTION 11.190.— To the Department of Social Services
For the Children's Division

Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$1,204,262
From Federal Funds	5,913,452
From Early Childhood Development, Education and Care Fund.	56,139

Expense and Equipment	
From Third Party Liability Collections Fund.	<u>163,323</u>
Total (Not to exceed 108.30 F.T.E.).	\$7,337,176

SECTION 11.195.— To the Department of Social Services
For the Children's Division

For the Children's Division field staff and operations	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$28,811,911
From Federal Funds	45,987,689
From Health Initiatives Fund.	<u>96,866</u>
Total (Not to exceed 1,942.45 F.T.E.).	\$74,896,466

SECTION 11.200.— To the Department of Social Services
For the Children's Division

For the purpose of funding Child Welfare Accreditation	
Personal Service and/or Expense and Equipment, provided that not more than twenty-five percent (25%) flexibility is allowed between personal service and expense and equipment	
From General Revenue Fund.	\$8,136,104
From Federal Funds.	<u>3,649,613</u>
Total (Not to exceed 152.50 F.T.E.).	\$11,785,717

SECTION 11.205.— To the Department of Social Services
For the Children's Division

For Children's Division staff training	
From General Revenue Fund.	\$1,126,800
From Federal Funds.	<u>384,041</u>
Total.	\$1,510,841

SECTION 11.210.— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services provided that such programs and services are in existence as of the effective date of this section including, but not limited to, home-based services, day treatment services, preventive services, child care, family reunification services, or intensive in-home services

From General Revenue Fund.	\$6,810,191
From Federal Funds	<u>5,666,047</u>

For the purpose of funding crisis nursery

From General Revenue Fund.	1,350,000
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For the purpose of funding teen crisis care

From General Revenue Fund.	<u>400,000</u>
Total.	\$14,226,238

SECTION 11.215.— To the Department of Social Services

For the Children's Division

For the purpose of funding grants to local community-based programs to strengthen the child welfare system locally to prevent child abuse and neglect and divert children from entering into the custody of the Children's Division

From General Revenue Fund.	\$1,600,000
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For the purpose of funding a grant to a local community-based, not-for-profit agency in the metropolitan St. Louis region for a demonstration project utilizing a child abuse prevention module delivered to at least 10,000 children, a parent focused module providing education to at least 500 families and family preservation services for 50 families, provided that five percent (5%) of the total funding shall be used to provide a comprehensive evaluation of the outcomes including both quantitative and qualitative analysis

From General Revenue Fund.	<u>300,000</u>
Total.	\$1,900,000

SECTION 11.220.— To the Department of Social Services

For the Children's Division

For the purpose of funding placement costs including foster care payments; related services; expenses related to training of foster parents; residential treatment placements and therapeutic treatment services; and for the diversion of children from inpatient psychiatric treatment and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund.....	\$53,528,341
From Federal Funds.	<u>24,970,411</u>
Total.	\$78,498,752

SECTION 11.225.— To the Department of Social Services

For the Children's Division

For the purpose of providing comprehensive case management contracts through community-based organizations as described in Section 210.112, RSMo. The purpose of these contracts shall be to provide a system of care for children living in foster care, independent living, or residential care settings. Services eligible under this provision may include, but are not limited to, case management, foster care, residential treatment, intensive in-home services, family reunification services, and specialized recruitment and training of foster care families

From General Revenue Fund.....	\$12,752,048
From Federal Funds.	<u>9,318,018</u>
Total.	\$22,070,066

SECTION 11.230.— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption and Guardianship subsidy payments and related services

From General Revenue Fund.....	\$60,949,953
From Federal Funds.	<u>23,289,411</u>
Total.	\$84,239,364

SECTION 11.235.— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption Resource Centers

From General Revenue Fund.....	\$200,000
From Federal Funds.	<u>100,000</u>
Total.	\$300,000

SECTION 11.240.— To the Department of Social Services

For the Children's Division

For the purpose of funding independent living placements and transitional living payment services

From General Revenue Fund.....	\$1,690,790
From Federal Funds.	<u>4,423,228</u>
Total.	\$6,114,018

SECTION 11.245.— To the Department of Social Services

For the Children's Division

For the purpose of supplementing appropriations for children's treatment services; alternative care placement services; adoption subsidy services; independent living services; psychiatric diversion services and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund.....	\$9,670,990
From Federal Funds.	<u>6,773,261</u>
Total.	\$16,444,251

SECTION 11.250.— To the Department of Social Services

For the Children's Division

For the purpose of funding Regional Child Assessment Centers

From General Revenue Fund. \$1,498,952

From Federal Funds. 800,000

Total. \$2,298,952

SECTION 11.255.— To the Department of Social Services

For the Children's Division

For the purpose of funding diversion of children from inpatient

psychiatric treatment and to provide services to reduce the

number of children's inpatient medical hospitalization days

From General Revenue Fund. \$6,346,361

From Federal Funds. 9,691,373

Total. \$16,037,734

SECTION 11.260.— To the Department of Social Services

For the Children's Division

For the purpose of funding residential placement payments to counties

for children in the custody of juvenile courts

From Federal Funds. \$700,000

SECTION 11.265.— To the Department of Social Services

For the Children's Division

For the purpose of funding the Child Abuse and Neglect Prevention

Grant and Children's Justice Act Grant

From Federal Funds. \$188,316

SECTION 11.270.— To the Department of Social Services

For the Children's Division

For the purpose of funding transactions involving personal funds of

children in the custody of the Children's Division or the

Division of Youth Services

From Alternative Care Trust Fund. \$12,000,000E

SECTION 11.275.— To the Department of Social Services

For the Children's Division

For the purpose of funding child care services, the general

administration of the programs, including development and

implementation of automated systems to enhance time and

attendance reporting, contract compliance, and payment accuracy,

and to support the Educare Program

From General Revenue Fund. \$71,837,747

From Federal Funds 111,402,702

From Early Childhood Development, Education and Care Fund. 1,548,152

For the purpose of payments to accredited child care providers

pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund. 3,074,500

For the purpose of funding early childhood start-up and expansion

grants pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund. 3,689,400

For the purpose of funding early childhood development, education,
and care programs for low-income families pursuant to Chapter
313, RSMo

From Early Childhood Development, Education and Care Fund. 3,074,500

For the purpose of funding certificates to low-income, at-home
families pursuant to Chapter 313, RSMo

From Early Childhood Development, Education and Care Fund. 3,074,500

Total. \$197,701,501

SECTION 11.280.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding Central Office and Regional Offices

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund. \$1,560,990

From Federal Funds. 668,320

Total (Not to exceed 47.33 F.T.E.). \$2,229,310

SECTION 11.285.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding treatment services, including foster care
and contractual payments

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
personal service and expense and equipment

From General Revenue Fund. \$35,527,663

From Federal Funds 13,622,464

From DOSS Educational Improvement Fund 6,373,082

From Health Initiatives Fund 135,503

Expense and Equipment

From Youth Services Products Fund. 1E

For the purpose of paying overtime to nonexempt state employees as
required by Section 105.935, RSMo, and/or for otherwise
authorized Personal Service expenditures in lieu of such
overtime payments

From General Revenue Fund. 1,110,658

Total (Not to exceed 1,368.81 F.T.E.). \$56,769,371

SECTION 11.290.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding incentive payments to counties for
community-based treatment programs for youth

From General Revenue Fund. \$3,767,880

From Gaming Commission Fund. 500,000

Total. \$4,267,880

SECTION 11.400.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding administrative services

Personal Service and/or Expense and Equipment, provided that not
more than twenty-five percent (25%) flexibility is allowed
between personal service and expense and equipment

From General Revenue Fund.	\$4,660,106
From Federal Funds	9,579,985
From Pharmacy Rebates Fund	23,976
From Pharmacy Reimbursement Allowance Fund	25,476
From Health Initiatives Fund	335,180
From Nursing Facility Quality of Care Fund	90,794
From Third Party Liability Collections Fund.	848,904
From Missouri Rx Plan Fund.	<u>787,859</u>
Total (Not to exceed 263.11 F.T.E.).	\$16,352,280

SECTION 11.405.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding health care technology projects and initiatives

to improve the delivery of care, reduce administrative burdens, and
reduce waste, fraud, and abuse. Five hundred thousand dollars
(\$500,000) shall be used to fund a regionally integrated electronic
medical records system linking rural physicians and hospitals in the
Northwest Missouri region. Such project shall provide a system
which integrates health care records within a regional database and
utilizes technology that can be easily shared with other health providers
and may be replicated beyond its immediate population. The contractor
shall be required to provide at least nine hundred thousand dollars
(\$900,000) in matching contributions to the project. Said match may
be a combination of cash and in-kind

From Health Care Technology Fund.	\$5,500,000
From Federal Funds.	<u>2,500,000</u>
Total.	\$8,000,000

SECTION 11.410.— There is transferred out of the State Treasury from

the General Revenue Fund and the Health Initiatives Fund to the
Health Care Technology Fund for the purpose of funding health
care technology projects

From General Revenue Fund.	\$6,062,500
From Health Initiatives Fund.	<u>6,500,000</u>
Total.	\$12,562,500

SECTION 11.415.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding clinical services management related to the
administration of the MO HealthNet Pharmacy fee-for-service and
managed care programs and administration of the Missouri Rx Plan

From General Revenue Fund.	\$2,301,123
From Federal Funds	7,965,288
From Third Party Liability Collections Fund.	924,911
From Health Care Technology Fund	2,487,500
From Missouri Rx Plan Fund.	<u>4,160,894</u>

Total. \$17,839,716

SECTION 11.420.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding women and minority health care outreach programs

From General Revenue Fund. \$546,125

From Federal Funds. 568,625

Total. \$1,114,750

SECTION 11.425.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding a revenue maximization unit in the MO

HealthNet Division

Personal Service. \$92,019

Expense and Equipment. 8,114

From Federal Funds 100,133

Personal Service. 92,019

Expense and Equipment. 8,114

From Federal Reimbursement Allowance Fund. 100,133

Total (Not to exceed 4.00 F.T.E.). \$200,266

SECTION 11.430.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding fees associated with third-party

collections and other revenue maximization cost avoidance fees

From Federal Funds. \$3,000,000E

From Third Party Liability Collections Fund. 3,000,000E

Total. \$6,000,000

SECTION 11.435.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding the operation of the information systems

From General Revenue Fund. \$5,697,417

From Federal Funds 19,851,039

For the purpose of funding the modernization of the Medicaid

Management Information System (MMIS) and the operation of the

information systems

From Federal Funds 34,940,000

From Health Care Technology Fund. 5,660,000

Total. \$66,148,456

SECTION 11.440.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding contractor payments associated with managed

care eligibility and enrollment of MO HealthNet recipients

From General Revenue Fund. \$157,500

From Federal Funds 2,067,613

For the purpose of funding contractor and provider payments

associated with participant case management services for MO

HealthNet recipients	
From General Revenue Fund.	13,522,716
From Federal Funds.	19,891,360
Total.	<u>\$35,639,189</u>

***SECTION 11.445.**— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding pharmaceutical payments and program expenses under the MO HealthNet and Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo and for Medicare Part D Clawback payments and for administration of these programs. The line item appropriations within this section may be used for any other purpose for which line item funding is appropriated within this section provided that not more than \$350,000 of the appropriations within this section shall be used to fund the Missouri Rx Plan Advisory Commission's expenses

For the purpose of funding pharmaceutical payments under the MO HealthNet fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists and for a comprehensive chronic care risk management program and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program

From General Revenue Fund.	\$150,526,710
From Federal Funds	495,949,949
From Life Sciences Research Trust Fund	28,725,000
From Pharmacy Rebates Fund	67,706,121E
From Third Party Liability Collections Fund.	5,271,334
From Pharmacy Reimbursement Allowance Fund	31,141,351E
From Health Initiatives Fund	969,293
From Healthy Families Trust Fund	1,041,034
From Premium Fund.	3,800,000

For the purpose of funding Part D Medicare Clawback payments and for funding MO HealthNet pharmacy payments as authorized by the provisions of Section 11.445, RSMo

From General Revenue Fund.	190,000,000
From Federal Funds	1E

For the purpose of funding pharmaceutical payments under the Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo

From Missouri Rx Plan Fund	5,781,772E
From Healthy Families Trust Fund.	13,820,394
Total.	<u>\$994,732,959</u>

*I hereby veto \$15,000,000 General Revenue for the Part D Medicare Clawback payments. The appropriation is being reduced to reflect the anticipated spending level.

From \$190,000,000 to \$175,000,000 from General Revenue Fund
From \$994,732,959 to 979,732,959 in total for the section.

MATT BLUNT, GOVERNOR

SECTION 11.450.— There is transferred out of the State Treasury from
the General Revenue Fund to the Pharmacy Reimbursement
Allowance Fund

From General Revenue Fund. \$30,000,000E

SECTION 11.455.— There is transferred out of the State Treasury from
the Pharmacy Reimbursement Allowance Fund to the General Revenue
Fund as a result of recovering the Pharmacy Reimbursement
Allowance Fund

From Pharmacy Reimbursement Allowance Fund. \$30,000,000E

SECTION 11.460.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding physician services and related services including,
but not limited to, clinic and podiatry services, telemedicine services,
physician-sponsored services and fees, laboratory and x-ray services,
and family planning services under the MO HealthNet fee-for-service
and managed care programs and for a comprehensive chronic care risk
management program and Major Medical Prior Authorization and for
the treatment of Sickle Cell Disease using the comprehensive chronic
care risk management model as implemented by the state's Chronic Care
Improvement Program

From General Revenue Fund.	\$169,168,874
From Federal Funds	315,391,448
From Third Party Liability Collections Fund.	1,906,107
From Health Initiatives Fund	1,247,544
From Healthy Families Trust Fund.	1,041,034
Total.	<u>\$488,755,007</u>

SECTION 11.465.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding dental services under the MO HealthNet
fee-for-service and managed care programs and for the treatment
of Sickle Cell Disease using the comprehensive chronic care risk
management model as implemented by the state's Chronic Care
Improvement Program

From General Revenue Fund.	\$3,949,391
From Federal Funds	8,332,660
From Health Initiatives Fund	71,162
From Healthy Families Trust Fund.	848,773
Total.	<u>\$13,201,986</u>

SECTION 11.470.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding payments to third-party insurers, employers,
or policyholders for health insurance

From General Revenue Fund.	\$53,660,706
From Federal Funds.	94,501,846
Total.	<u>\$148,162,552</u>

SECTION 11.475.— To the Department of Social Services
For the MO HealthNet Division

For funding long-term care services

For the purpose of funding care in nursing facilities or other long-term care services under the MO HealthNet fee-for-service and managed care programs and for contracted services to develop model policies and practices that improve the quality of life for long-term care residents and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program

From General Revenue Fund.	\$163,427,935
From Federal Funds	382,526,756
From Uncompensated Care Fund	58,516,478
From Healthy Families Trust Fund	17,973
From Third Party Liability Collections Fund.	2,592,981

For the purpose of funding home health and Program for All-Inclusive Care for the Elderly, or other long-term care services under the MO HealthNet fee-for-service and managed care programs

From General Revenue Fund.	4,416,384
From Federal Funds	7,761,339
From Health Initiatives Fund.	159,305
Total.	\$619,419,151

SECTION 11.480. — To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding an electronic pilot project in one or more skilled nursing facilities in Greene County to study the cost effectiveness of electronic health records in long-term care and the financial benefit to MO HealthNet

From Nursing Facility Quality of Care Fund.	\$450,000
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SECTION 11.485. — To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding all other non-institutional services provided that such programs and services are in existence as of the effective date of this section including, but not limited to, rehabilitation, optometry, audiology, ambulance, non-emergency medical transportation, durable medical equipment, eyeglasses under the MO HealthNet fee-for-service and managed care programs, and for rehabilitation services provided by residential treatment facilities as authorized by the Children's Division for children in the care and custody of the Children's Division and for the treatment of Sickle Cell Disease using the comprehensive chronic care risk management model as implemented by the state's Chronic Care Improvement Program. A portion of this funding allows for contracted services related to prior authorization of certain MO HealthNet services

From General Revenue Fund.	\$76,686,657
From Federal Funds	130,741,565
From Healthy Families Trust Fund	831,745
From Health Initiatives Fund	194,881

For the purpose of funding non-emergency medical transportation and for the treatment of Sickle Cell Disease using the comprehensive

chronic care risk management model as implemented by the state's Chronic Care Improvement Program	
From General Revenue Fund.....	12,671,608
From Federal Funds	21,575,982

For the purpose of funding the federal share of MO HealthNet reimbursable non-emergency medical transportation for public entities	
From Federal Funds.	6,460,100
Total.	\$249,162,538

SECTION 11.490.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the MO HealthNet fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16), RSMo	
From General Revenue Fund.....	\$243,623,969
From Federal Funds	701,690,242
From Medicaid Managed Care Organization Reimbursement Allowance Fund.	45,912,625E
From Health Initiatives Fund	8,055,080
From Federal Reimbursement Allowance Fund.....	109,065,009
From Healthy Families Trust Fund.....	4,447,110
Total.	\$1,112,794,035

SECTION 11.495.— There is transferred out of the State Treasury from the
General Revenue Fund to the Medicaid Managed Care Organization
Reimbursement Allowance Fund

From General Revenue Fund.....	\$21,400,000E
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SECTION 11.500.— There is transferred out of the State Treasury from the
Medicaid Managed Care Organization Reimbursement Allowance Fund
to the General Revenue Fund as a result of recovering the Medicaid
Managed Care Organization Reimbursement Allowance Fund

From Medicaid Managed Care Organization Reimbursement Allowance Fund.	\$21,400,000E
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SECTION 11.505.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding hospital care under the MO HealthNet fee-
for-service and managed care programs, and for a comprehensive
chronic care risk management program and for the treatment of
Sickle Cell Disease using the comprehensive chronic care risk
management model as implemented by the state's Chronic Care
Improvement Program. The MO HealthNet Division may adjust
SFY 2009 costs of the uninsured payments to hospitals to reflect
the impact on hospitals of the elimination of MO HealthNet
coverage for adults with incomes above the TANF level and who

were covered through a Section 1931 transfer. The MO HealthNet Division shall track payments to out-of-state hospitals by location and by services for adults and by services for children

From General Revenue Fund.	\$29,483,608
From Federal Funds	405,237,628
From Uncompensated Care Fund	32,483,522
From Federal Reimbursement Allowance Fund.	132,967,390
From Health Care Technology Fund	200,000
From Health Initiatives Fund	2,797,179
From Third Party Liability Collections Fund.	1,062,735
From Healthy Families Trust Fund	2,365,987

For Safety Net Payments

From Healthy Families Trust Fund	30,365,444
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For Graduate Medical Education

From Healthy Families Trust Fund	10,000,000
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For the purpose of funding a community-based care coordinating program that includes in-home visits and/or phone contact by a nurse care manager or electronic monitor. The purpose of such program shall be to ensure that patients are discharged from hospitals to an appropriate level of care and services and that targeted MO HealthNet beneficiaries with chronic illnesses and high-risk pregnancies receive care in the most cost-effective setting. Areas of implementation shall include, but not be limited to, Greene County. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Funds	200,000
From Federal Reimbursement Allowance Fund.	200,000

For the purpose of funding hospital care under the MO HealthNet fee-for-service and managed care programs, and funding costs incurred by hospitals for the staffing of the emergency department with MO HealthNet enrolled physicians of Level I, II, III Trauma Centers as defined by the Department of Health and Senior Services and Critical Access Hospitals as defined by the Department of Social Services, MO HealthNet Division, contingent upon adoption of an offsetting increase in the applicable provider tax

From Federal Funds	30,000,000E
From Federal Reimbursement Allowance Fund.	20,000,000E

For the purpose of continuing funding in Southwest Missouri and metropolitan Kansas City Regions of the pager project facilitating medication compliance for the chronically ill MO HealthNet participants identified by the Division as having high utilization of acute care because of poor management of their condition. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the MO HealthNet Division's Disease Management Program

From Federal Funds	215,000
From Federal Reimbursement Allowance Fund.	215,000
Total.	\$697,793,493

SECTION 11.510.— To the Department of Social Services

For the MO HealthNet Division

For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs
for federal Medicaid funds, utilizing current state and local funding
sources as match for services that are not currently matched with
federal Medicaid payments

From Federal Funds. \$8,000,000E

SECTION 11.515.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding grants to Federally Qualified Health Centers

From General Revenue Fund. \$9,350,000

From Health Care Technology Fund. 5,000,000

Total. \$14,350,000

SECTION 11.520.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding a pilot project for rural health clinics
using telehealth

From General Revenue Fund. \$530,000

From Federal Funds. 872,859

Total. \$1,402,859

SECTION 11.525.— To the Department of Social Services

For the MO HealthNet Division

For the purpose of funding payments to hospitals under the Federal
Reimbursement Allowance Program and for the expenses of the
Poison Control Center in order to provide services to all hospitals
within the state

From Federal Reimbursement Allowance Fund. \$752,000,000E

SECTION 11.530.— To the Department of Social Services

For the MO HealthNet Division

For funding extended women's health services using fee-for-service,
prepaid health plans, or other alternative service delivery and
reimbursement methodology approved by the director of the
Department of Social Services

From General Revenue Fund. \$1,416,441

From Federal Funds 11,512,177

From Federal Reimbursement Allowance Fund. 167,756

From Pharmacy Reimbursement Allowance Fund 30,411

For the purpose of funding health care services provided to uninsured
adults through local initiatives for the uninsured

From Federal and Other Funds. 1E

Total. \$13,126,786

SECTION 11.535.— To the Department of Social Services

For the MO HealthNet Division

For funding programs to enhance access to care for uninsured children
using fee-for-services, prepaid health plans, or other alternative
service delivery and reimbursement methodology approved by the

director of the Department of Social Services. Provided that families of children receiving services under this section shall pay the following premiums to be eligible to receive such services: zero percent on the amount of a family's income which is less than 150 percent of the federal poverty level; four percent on the amount of a family's income which is less than 185 percent of the federal poverty level but greater than 150 percent of the federal poverty level; eight percent of the amount on a family's income which is less than 225 percent of the federal poverty level but greater than 185 percent of the federal poverty level; fourteen percent on the amount of a family's income which is less than 300 percent of the federal poverty level but greater than 225 percent of the federal poverty level not to exceed five percent of total income.

Families with an annual income of more than 300 percent of the federal poverty level are ineligible for this program

From General Revenue Fund.	\$30,074,487
From Medicaid Managed Care Organization Reimbursement Allowance Fund . .	1,071,200
From Federal Funds	136,877,562
From Federal Reimbursement Allowance Fund.	7,719,204
From Health Initiatives Fund	5,375,576
From Pharmacy Rebates Fund	225,430
From Pharmacy Reimbursement Allowance Fund	201,394
From Premium Fund.	6,000,000
Total.	\$187,544,853

SECTION 11.545.— There is transferred out of the State Treasury from the General Revenue Fund to the Federal Reimbursement Allowance Fund

From General Revenue Fund. \$450,000,000E

SECTION 11.550.— There is transferred out of the State Treasury from the Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Federal Reimbursement Allowance Fund

From Federal Reimbursement Allowance Fund. \$450,000,000E

SECTION 11.555.— There is transferred out of the State Treasury from the General Revenue Fund to the Nursing Facility Federal Reimbursement Allowance Fund

From General Revenue Fund. \$120,000,000E

SECTION 11.560.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Nursing Facility Federal Reimbursement Allowance Fund

From Nursing Facility Federal Reimbursement Allowance Fund. \$120,000,000E

SECTION 11.565.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the Nursing Facility Quality of Care Fund

From Nursing Facility Federal Reimbursement Allowance Fund. \$1,500,000

SECTION 11.570.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of funding Nursing Facility Federal Reimbursement

Allowance payments as provided by law
 From Nursing Facility Federal Reimbursement Allowance Fund..... \$213,840,231E

SECTION 11.575.— To the Department of Social Services
 For the MO HealthNet Division

For the purpose of funding MO HealthNet services for the Department
 of Elementary and Secondary Education under the MO HealthNet
 fee-for-service and managed care programs
 From General Revenue Fund..... \$69,954
 From Federal Funds .. 33,299,954E
 Total. \$33,369,908

SECTION 11.580.— To the Department of Social Services
 For the MO HealthNet Division

For the purpose of funding medical benefits for recipients of the State
 Medical programs, including coverage in managed care programs
 and for the treatment of Sickle Cell Disease using the comprehensive
 chronic care risk management model as implemented by the state's
 Chronic Care Improvement Program
 From General Revenue Fund..... \$29,346,161
 From Pharmacy Reimbursement Allowance Fund . 535,223
 From Health Initiatives Fund. 353,437
 Total. \$30,234,821

SECTION 11.585.— To the Department of Social Services
 For the MO HealthNet Division

For the purpose of supplementing appropriations for any medical service
 under the MO HealthNet fee-for-service, managed care, or state
 medical programs, including related services and for the treatment
 of Sickle Cell Disease using the comprehensive chronic care risk
 management model as implemented by the state's Chronic Care
 Improvement Program, provided that the funds appropriated herein
 shall not be used to implement new programs or services and that
 such programs and services are in existence as of the effective date
 of this section
 From Federal Funds. \$24,107,486
 From Premium Fund. 3,837,940
 From Third Party Liability Collections Fund. 7,571,156
 From Uncompensated Care Fund . 1
 From Pharmacy Rebates Fund . 1
 From Federal Reimbursement Allowance Fund..... 1
 From Nursing Facility Federal Reimbursement Allowance Fund..... 181,500
 Total. \$35,698,085

BILL TOTALS

General Revenue Fund..... \$1,614,886,697
 Federal Funds. 3,565,044,825
 Other Funds..... 1,725,263,763
 Total. \$6,905,195,285

Approved June 27, 2008

HB 2012 [CCS SCS HCS HB 2012]

APPROPRIATIONS: CHIEF EXECUTIVE'S OFFICE AND MANSION, LT. GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF THE STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 12.005.— To the Governor

Personal Service and/or Expense and Equipment.. . . .	\$2,001,845
Annual salary adjustment in accordance with Section 105.005, RSMo	3,898
Personal Service and/or Expense and Equipment for the Mansion.. . . .	142,628
From General Revenue Fund (Not to exceed 34.00 F.T.E.).. . . .	\$2,148,371

SECTION 12.010.— To the Governor

For expenses incident to emergency duties performed by the National Guard
when ordered out by the Governor
From General Revenue Fund. \$1E

SECTION 12.015.— To the Governor

For conducting special audits
From General Revenue Fund. \$200,000

SECTION 12.020.— To the Governmental Emergency Fund Committee

For allocation by the committee to state agencies that qualify for emergency
or supplemental funds under the provisions of Section 33.720, RSMo
From General Revenue Fund. \$1E

SECTION 12.025.— To the Lieutenant Governor

Personal Service and/or Expense and Equipment.	\$448,842
Annual salary adjustment in accordance with Section 105.005, RSMo.	2,519
From General Revenue Fund (Not to exceed 8.50 F.T.E.).	\$451,361

SECTION 12.030.— To the Lieutenant Governor

For the Veteran's Remembrance Project

From General Revenue Fund.	\$600,000
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SECTION 12.035.— To the Secretary of State

Personal Service and/or Expense and Equipment	
From General Revenue Fund.	\$10,278,077
From Federal Funds	856,639
From Secretary of State's Technology Trust Fund Account.	3,526,568
From Local Records Preservation Fund	1,565,665
From Secretary of State - Wolfner State Library Fund	206,500
From Investor Education and Protection Fund.	760,666

Annual salary adjustment in accordance with Section 105.005, RSMo	
From General Revenue Fund.	3,138
Total (Not to exceed 267.30 F.T.E.).	\$17,197,253

SECTION 12.040.— To the Secretary of State

For the purpose of receiving and expending grants, donations, contracts,
and payments from private, federal, or other governmental agencies
provided that the general assembly shall be notified of the source of
any new funds and the purpose for which they will be expended, in
writing, prior to the expenditure of said funds

From Federal and Other Funds.	\$200,000E
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SECTION 12.045.— To the Secretary of State

For costs related to the publication of the State's Official Manual

From General Revenue Fund.	\$10,000
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SECTION 12.050.— To the Secretary of State

For refunds of securities, corporations, uniform commercial code, and
miscellaneous collections of the Secretary of State's Office

From General Revenue Fund.	\$50,000E
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SECTION 12.055.— To the Secretary of State

For reimbursement to victims of securities fraud and other violations
pursuant to Section 409.407, RSMo

From Investors Restitution Fund.	\$55,000E
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SECTION 12.060.— To the Secretary of State

For expenses of initiative referendum and constitutional amendments

From General Revenue Fund.	\$1,300,000E
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SECTION 12.065.— To the Secretary of State

For election costs associated with absentee ballots

From General Revenue Fund.	\$80,000E
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SECTION 12.070.— To the Secretary of State

For costs associated with providing provisional ballots and voter registration applications

From General Revenue Fund. \$21,395

SECTION 12.075.— To the Secretary of State

For election reform grants, transactions costs, and support of Help America Vote Act activities

From Federal Funds. \$10,396,185E

From Election Administration Improvement Fund. 3,574,158E

Total (Not to exceed 6.00 F.T.E.). \$13,970,343

SECTION 12.080.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund such amounts as may become necessary, to the State Elections Subsidy Fund

From General Revenue Fund. \$4,284,000E

SECTION 12.085.— To the Secretary of State

For the state's share of special election costs as required by Chapter 115, RSMo

From State Elections Subsidy Fund. \$400,000E

SECTION 12.090.— There is transferred out of the State Treasury, chargeable to the State Elections Subsidy Fund, to the Election Administration Improvement Fund

From State Elections Subsidy Fund. \$3,784,000E

SECTION 12.095.— To the Secretary of State

For historical repository grants

From Federal Funds. \$15,000

SECTION 12.100.— To the Secretary of State

For the preservation of nationally significant records at the local level

From Federal Funds (Not to exceed 4.00 F.T.E.). \$241,949

SECTION 12.105.— To the Secretary of State

For local records preservation grants

From Local Records Preservation Fund. \$400,000E

SECTION 12.110.— To the Secretary of State

For preserving legal, historical, and genealogical materials and making them available to the public

From State Document Preservation Fund. \$189,260E

For costs related to establishing and operating a St. Louis Record Center

From Missouri State Archives - St. Louis Trust Fund 1E

Total. \$189,261

SECTION 12.115.— To the Secretary of State

For aid to public libraries

From General Revenue Fund. \$4,004,456

SECTION 12.120.— To the Secretary of State
 For the Remote Electronic Access for Libraries (REAL) Program
 From General Revenue Fund. \$3,109,250

SECTION 12.125.— To the Secretary of State
 For the Literacy Investment for Tomorrow (LIFT) Program
 From General Revenue Fund. \$69,450

SECTION 12.130.— To the Secretary of State
 For all allotments, grants, and contributions from the federal government
 or from any sources that may be deposited in the State Treasury for the
 use of the Missouri State Library
 From Federal Funds. \$2,750,000E

SECTION 12.135.— To the Secretary of State
 For library networking grants and other grants and donations
 From Library Networking Fund. \$2,250,001E

SECTION 12.140.— To the Secretary of State
 There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the Library Networking Fund
 From General Revenue Fund. \$1,800,000E

SECTION 12.145.— To the State Auditor
 Personal Service and/or Expense and Equipment
 From General Revenue Fund. \$7,208,224
 From Federal Funds 512,393
 From Conservation Commission Fund. 45,651
 From Parks Sales Tax Fund. 21,496
 From Soil and Water Sales Tax Fund 20,728
 From Petition Audit Revolving Trust Fund 844,350

Annual salary adjustment in accordance with Section 105.005, RSMo
 From General Revenue Fund. 3,138
 Total (Not to exceed 168.77 F.T.E.). \$8,655,980

SECTION 12.150.— To the State Treasurer
 Personal Service and/or Expense and Equipment
 From State Treasurer's General Operations Fund. \$1,820,882
 From Central Check Mailing Service Revolving Fund. 247,978E
 From Workers' Compensation - Second Injury Fund. 45,069

For Unclaimed Property Division administrative costs including personal
 service, expense and equipment for auctions, advertising, and promotions
 From Abandoned Fund Account. 841,001E

For preparation and dissemination of information or publications, or
 for refunding overpayments
 From Treasurer's Information Fund. 8,000

Annual salary adjustment in accordance with Section 105.005, RSMo
 From State Treasurer's General Operations Fund. 3,138
 Total (Not to exceed 49.40 F.T.E.). \$2,966,068

SECTION 12.155.— To the State Treasurer

For issuing duplicate checks or drafts and outlawed checks as provided
by law

From General Revenue Fund. \$1,000,000E

SECTION 12.160.— To the State Treasurer

For payment of claims for abandoned property transferred by holders
to the state

From Abandoned Fund Account. \$22,500,000E

SECTION 12.165.— To the State Treasurer

For transfer of such sums as may be necessary to make payment of claims
from the Abandoned Fund Account pursuant to Chapter 447, RSMo

From General Revenue Fund. \$1E

SECTION 12.170.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned
Fund Account, to the General Revenue Fund

From Abandoned Fund Account. \$30,000,000E

SECTION 12.175.— To the State Treasurer

For refunds of excess interest from the Linked Deposit Program

From General Revenue Fund. \$100E

SECTION 12.180.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the funds
listed below, to the Missouri Investment Trust Fund

From Missouri Arts Council Trust Fund. \$2,000,000E

From Missouri Humanities Council Trust Fund. 1,000,000E

From Secretary of State - Wolfner State Library Fund. 375,000E

Total. \$3,375,000

SECTION 12.185.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Debt Offset
Escrow Fund, to the General Revenue Fund

From Debt Offset Escrow Fund. \$100,000E

SECTION 12.190.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to various funds,
to the General Revenue Fund

From Various Funds. \$1E

SECTION 12.195.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned
Fund Account, to the State Public School Fund

From Abandoned Fund Account. \$1,500,000E

SECTION 12.200.— To the Attorney General

Personal Service and/or Expense and Equipment

From General Revenue Fund. \$13,717,627

From Federal Funds 2,221,077

From Gaming Commission Fund. 140,029

From Natural Resources Protection Fund-Water Pollution Fee Subaccount.	41,327
From Solid Waste Management Fund	41,827
From Petroleum Storage Tank Insurance Fund	25,108
From Motor Vehicle Commission Fund	49,467
From Health Spa Regulatory Fund.	5,000
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount	41,302
From Attorney General's Court Costs Fund	187,000
From Soil and Water Sales Tax Fund	14,464
From Merchandising Practices Revolving Fund.	2,566,162
From Workers' Compensation Fund.	468,101
From Workers' Compensation-Second Injury Fund.	2,844,771
From Lottery Enterprise Fund	55,256
From Attorney General's Anti-Trust Fund.	624,232
From Hazardous Waste Fund.	298,481
From Safe Drinking Water Fund.	14,489
From Inmate Incarceration Reimbursement Act Revolving Fund	137,584
From Mined Land Reclamation Fund	14,459

Annual salary adjustment in accordance with Section 105.005, RSMo

From General Revenue Fund.	3,391
Total (Not to exceed 405.05 F.T.E.).	\$23,511,154

SECTION 12.205.— To the Attorney General

For law enforcement, domestic violence, and victims' services

Expense and Equipment

From Federal Funds.	\$100,000
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SECTION 12.210.— To the Attorney General

For a Medicaid fraud unit

Personal Service and/or Expense and Equipment

From General Revenue Fund.	\$317,265
From Federal Funds.	1,610,347
Total (Not to exceed 23.00 F.T.E.).	\$1,927,612

SECTION 12.215.— To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service and/or Expense and Equipment

From Federal Funds	1,070,855
From Missouri Office of Prosecution Services Fund.	2,020,441
From Missouri Office of Prosecution Services Revolving Fund.	150,000E
Total (Not to exceed 9.00 F.T.E.).	\$3,241,296

SECTION 12.220.— To the Attorney General

For the Missouri Office of Prosecution Services

There is transferred out of the State Treasury, chargeable to the

Attorney General Federal Fund, to the Missouri Office of

Prosecution Services Fund

From Federal Funds.	\$100,000
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SECTION 12.225.— To the Attorney General

For the fulfillment or failure of conditions, or other such developments,

necessary to determine the appropriate disposition of such funds,

to those individuals, entities, or accounts within the State Treasury,
 certified by the Attorney General as being entitled to receive them
 Expense and Equipment
 From Attorney General Trust Fund. \$1E

SECTION 12.230.— To the Attorney General
 There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Attorney General's Court Costs Fund
 From General Revenue Fund. \$165,600

SECTION 12.235.— To the Attorney General
 There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Attorney General's Anti-Trust Fund
 From General Revenue Fund. \$69,000

SECTION 12.300.— To the Supreme Court
 For the purpose of funding Judicial Proceedings and Review
 Personal Service and/or Expense and Equipment, provided that not
 more than ten percent (10%) flexibility is allowed between
 personal service and expense and equipment. \$4,655,207
 Annual salary adjustment in accordance with Section 476.405, RSMo. 27,937
 From General Revenue Fund. 4,683,144

Personal Service
 From Federal Funds 485,026

Expense and Equipment
 From Supreme Court Publications Revolving Fund 150,000

For legal services organizations in Missouri which are recipients of federal
 Legal Services Corporation funding solely to provide legal services
 to low-income populations
 From Legal Services for Low-Income People Fund 225,389E

For the purpose of funding basic legal services
 Personal Service. 51,968
 Expense and Equipment 10,266
 Program Specific Distribution 3,200,000E
 From Basic Civic Legal Services Fund. 3,262,234
 Total (Not to exceed 83.00 F.T.E.). \$8,805,793

SECTION 12.305.— To the Supreme Court
 For the purpose of funding the State Courts Administrator
 Personal Service. \$3,236,620
 Expense and Equipment. 529,892
 From General Revenue Fund. 3,766,512

For the purpose of implementing and supporting an integrated case
 management system
 Personal Service. 3,101,485
 Expense and Equipment. 4,254,937
 From General Revenue Fund. 7,356,422

Expense and Equipment
From State Court Administration Revolving Fund 30,000

Expense and Equipment
From Crime Victims' Compensation Fund. 887,200
Total (Not to exceed 136.00 F.T.E.). \$12,040,134

SECTION 12.310.— To the Supreme Court

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts
Personal Service. \$2,217,578
Expense and Equipment 5,609,649E
From Federal Funds 7,827,227

Personal Service. 30,942
Expense and Equipment. 300
From Basic Civil Legal Services Fund. 31,242
Total (Not to exceed 45.25 F.T.E.). \$7,858,469

SECTION 12.315.— To the Supreme Court

For the purpose of developing and implementing a program of statewide court automation
Personal Service. \$1,561,021
Expense and Equipment 2,885,181E
From the Statewide Court Automation Fund, and any grants, contributions, or receipts from the federal government or any other source deposited into the State Treasury for court automation
(Not to exceed 34.00 F.T.E.). \$4,446,202

SECTION 12.320.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Judiciary Education and Training Fund

From General Revenue Fund \$1,395,363

SECTION 12.325.— To the Supreme Court

For the purpose of funding judicial education and training
Expense and Equipment
From Federal Funds. \$225,000

Personal Service. 618,477
Expense and Equipment. 1,033,445
From Judiciary Education and Training Fund. 1,651,922
Total (Not to exceed 13.00 F.T.E.). \$1,876,922

SECTION 12.330.— To the Supreme Court

For the purpose of funding the Court of Appeals-Western District
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between personal service and expense and equipment. \$3,700,544
Annual salary adjustment in accordance with Section 476.405, RSMo. 41,074
From General Revenue Fund (Not to exceed 53.50 F.T.E.). \$3,741,618

SECTION 12.335.— To the Supreme Court

For the purpose of funding the Court of Appeals-Eastern District

Personal Service and/or Expense and Equipment, provided that not

more than ten percent (10%) flexibility is allowed between

personal service and expense and equipment. \$4,766,161

Annual salary adjustment in accordance with Section 476.405, RSMo. 52,276

From General Revenue Fund (Not to exceed 73.75 F.T.E.). \$4,818,437

SECTION 12.340.— To the Supreme Court

For the purpose of funding the Court of Appeals-Southern District

Personal Service and/or Expense and Equipment, provided that not

more than ten percent (10%) flexibility is allowed between

personal service and expense and equipment. \$2,288,157

Annual salary adjustment in accordance with Section 476.405, RSMo. 26,138

From General Revenue Fund (Not to exceed 31.60 F.T.E.). \$2,314,295

SECTION 12.345.— To the Supreme Court

For the purpose of funding the Circuit Courts

Personal Service and/or Expense and Equipment, provided that not

more than ten percent (10%) flexibility is allowed between

personal service and expense and equipment. \$121,855,871

Annual salary adjustment in accordance with Section 476.405, RSMo 2,047,536

Expense and Equipment. 3,072,885

From General Revenue Fund. 126,976,292

Personal Service. 1,541,273

Expense and Equipment. 329,661

From Federal Funds 1,870,934

Personal Service. 252,524

Expense and Equipment. 128,039

From Third Party Liability Collections Fund. 380,563

Expense and Equipment

From State Court Administration Revolving Fund. 200,000

Total (Not to exceed 2,927.20 F.T.E.). \$129,427,789

SECTION 12.350.— To the Supreme Court

For the purpose of making payments due from litigants in court

proceedings under set-off against debts authority as provided

in Section 488.020(3), RSMo

From Circuit Courts Escrow Fund. \$505,500E

For the payment to counties for salaries of juvenile court personnel as

provided by Sections 211.393 and 211.394, RSMo

From General Revenue Fund. 7,579,900

For the purpose of funding court-appointed special advocacy program

statewide office

From General Revenue Fund. 300,000

For the purpose of funding court-appointed special advocacy programs

as provided in Section 476.777, RSMo

From Missouri CASA Fund. 100,000E

For the purpose of funding costs associated with creating the
handbook and other programs as provided in Section 452.554, RSMo
From the Domestic Relations Resolution Fund. 300,000
Total. \$8,785,400

SECTION 12.355.— There is transferred out of the State Treasury, chargeable
to the General Revenue Fund, to the Drug Court Resources Fund
From General Revenue Fund. \$5,725,500

SECTION 12.360.— To the Supreme Court
For the purpose of funding drug courts
Personal Service. \$238,445
Expense and Equipment 5,678,909E
From the Drug Court Resources Fund, and any grants, contributions, or
receipts from the federal government or any other source deposited
into the State Treasury for drug courts (Not to exceed 4.00 F.T.E.) \$5,917,354

SECTION 12.365.— To the Commission on Retirement, Removal, and
Discipline of Judges
For the purpose of funding the expenses of the Commission
Personal Service and/or Expense and Equipment, provided that not
more than ten percent (10%) flexibility is allowed between
personal service and expense and equipment
From General Revenue Fund (Not to exceed 2.75 F.T.E.). \$220,644

SECTION 12.370.— To the Supreme Court
For the purpose of funding the expenses of the members of the
Appellate Judicial Commission and the several circuit judicial
commissions in circuits having the non-partisan court plan, and
for services rendered by clerks of the Supreme Court, courts of
appeals, and clerks in circuits having the non-partisan court
plan for giving notice of and conducting elections as ordered by
the Supreme Court
From General Revenue Fund. \$7,741

SECTION 12.375.— To the Supreme Court
For the purpose of funding the Missouri Sentencing and Advisory Commission
Personal Service. \$35,316
Expense and Equipment. 43,667
From General Revenue Fund (Not to exceed 1.00 F.T.E.). \$78,983

SECTION 12.400.— To the Office of the State Public Defender
For the purpose of funding the State Public Defender System
Personal Service and/or Expense and Equipment. \$30,678,313

For payment of expenses as provided by Chapter 600, RSMo, associated
with the defense of violent crimes and/or the contracting of
criminal representation with entities outside of the Missouri
Public Defender System. 3,391,502
From General Revenue Fund. 34,069,815

For expenses authorized by the Public Defender Commission as provided
by Section 600.090, RSMo

Personal Service.....	129,507
Expense and Equipment.....	<u>2,850,756</u>
From Legal Defense and Defender Fund	2,980,263

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund	350,000E
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For all grants and contributions of funds from the federal government
or from any other source which may be deposited in the State
Treasury for the use of the Office of the State Public Defender

From Federal Funds.....	<u>125,000</u>
Total (Not to exceed 560.13 F.T.E.)	\$37,525,078

SECTION 12.500.— To the Senate

Salaries of Members.....	\$1,074,568
Mileage of Members.....	96,435
Senate Per Diem	226,100
Senate Contingent Expenses.....	9,230,883
Joint Contingent Expenses	125,000
Annual salary adjustment in accordance with Section 105.005, RSMo. ..	<u>77,588</u>
From General Revenue Fund.....	10,830,574

Senate Contingent Expenses	
From Senate Revolving Fund.....	<u>40,000</u>
Total	\$10,870,574

SECTION 12.505.— To the House of Representatives

Salaries of Members.....	\$5,121,231
Mileage of Members.....	440,491
Members' Per Diem	1,290,960
Representatives' Expense Vouchers	1,566,554
House Contingent Expenses	11,327,028
Annual salary adjustment in accordance with Section 105.005, RSMo. ..	<u>371,966</u>
From General Revenue Fund.....	20,118,230

House Contingent Expenses	
From House of Representatives Revolving Fund.....	<u>45,000E</u>
Total	\$20,163,230

SECTION 12.510.— To the Missouri Commission on Interstate Cooperation

For payment of dues

National Conference of State Legislatures.....	\$169,850
American Legislative Exchange Council	9,850
National Conference of Commissioners of Uniform State Laws.....	36,000
Council of State Governments.....	<u>128,897</u>
From General Revenue Fund.....	\$344,597

SECTION 12.515.— To the Committee on Legislative Research

For payment of expenses of members, salaries and expenses of employees,
and other necessary operating expenses, that not more than ten percent

(10%) flexibility is allowed between personal service and expense and equipment	
For the Legislative Research Administration.	\$1,054,354
For the Oversight Division	685,522
For the Legislative Budget Office.. . . .	<u>242,535</u>
From General Revenue Fund (Not to exceed 40.20 F.T.E.).	\$1,982,411

SECTION 12.520.— To the Committee on Legislative Research

For paper, printing, binding, editing, proofreading, and other necessary expenses of publishing the Supplement to the Revised Statutes of the State of Missouri

From General Revenue Fund.	\$380,459
From Statutory Revision Fund	<u>207,255E</u>
Total (Not to exceed 6.30 F.T.E.).. . . .	\$587,714

SECTION 12.525.— To the Interim Committees of the General Assembly

For the Joint Committee on Corrections.	\$12,000
For the Joint Committee on Administrative Rules.	128,977
For the Joint Committee on Public Employee Retirement.	169,274
For the Joint Committee on Capital Improvements and Leases Oversight	129,300
For the Joint Committee on Transportation Oversight.	20,000
For the Joint Committee on Tax Policy.. . . .	78,045
For the Joint Committee on Education.	<u>81,800</u>
From General Revenue Fund (Not to exceed 10.00 F.T.E.).	\$619,396

ELECTED OFFICIALS TOTALS

General Revenue Fund.	\$50,843,746
Federal Funds.	23,548,603
Other Funds.. . . .	<u>42,217,222</u>
Total.	\$116,609,571

JUDICIARY TOTALS

General Revenue Fund.	\$168,964,851
Federal Funds.	10,408,187
Other Funds.. . . .	<u>10,518,330</u>
Total.	\$189,891,368

PUBLIC DEFENDER COMMISSION TOTALS

General Revenue Fund.	\$34,069,815
Federal Funds.	125,000
Other Funds.. . . .	<u>2,980,263</u>
Total.	\$37,175,078

GENERAL ASSEMBLY TOTALS

General Revenue Fund.	\$34,275,667
Other Funds.. . . .	<u>292,255</u>
Total.	\$34,567,922

Approved June 30, 2008

HB 1013 [CCS SCS HCS HB 1013]

APPROPRIATIONS: LEASES AND CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for real property leases, related services, utilities, systems furniture, structural modifications, and related expenses for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to appropriate money for capital improvements and the other expenses of the Office of Administration and the divisions and programs thereof, and to transfer money among certain funds for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 as follows:

SECTION 13.005.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Elementary and Secondary Education

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. \$416,268

From Federal Funds and Other Funds 2,361,268

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. 473,431

From Federal Funds and Other Funds 1,096,946

For operation of institutional facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. 2,672,924

Total. \$7,020,837

SECTION 13.010.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Higher Education

For the payment of real property leases, related services, utilities, systems
furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. \$124,305

From Guaranty Agency Operating Fund. 277,413

Total. \$401,718

SECTION 13.015.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Revenue

For the payment of real property leases, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment

From General Revenue Fund. \$931,280

For operation of state-owned facilities, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment

From General Revenue Fund. 717,750

From Facilities Maintenance Reserve Fund. 1,790,124Total. \$3,439,154**SECTION 13.020.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Revenue

For the State Lottery Commission

For the payment of real property leases, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment

From Lottery Enterprise Fund. \$384,464

For operation of state-owned facilities, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment

From Lottery Enterprise Fund 2,969

For operation of institutional facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment

From Lottery Enterprise Fund. 123,254Total. \$510,687**SECTION 13.025.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Office of Administration

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment

From General Revenue Fund. \$218,752

From Other Funds 561,262

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment

From General Revenue Fund. 2,174,202

From Other Funds. 748,448Total. \$3,702,664

SECTION 13.030.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Office of Administration

For the collection and payment of real property leases, related services,
 utilities, systems furniture, structural modifications, and related
 expenses for non-state agencies located in state leased property
 Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund. \$116,855E

For collection and payment due for the operation of state-owned and
 institutional facilities, related services, utilities, systems furniture,
 structural modifications, and related expenses for space occupied
 by non-state agencies
 Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund. 579,524E

Total. \$696,379

SECTION 13.035.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Ethics Commission

For the payment of real property leases, related services, utilities,
 systems furniture, structural modifications, and related expenses
 Expense and Equipment

From General Revenue Fund. \$116,183

SECTION 13.040.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Agriculture

For the payment of real property leases, related services, utilities,
 systems furniture, structural modifications, and related expenses
 Expense and Equipment

From General Revenue Fund. \$296,913

From Other Funds 105,982

For operation of state-owned facilities, related services, utilities,
 systems furniture, structural modifications, and related expenses
 Expense and Equipment

From General Revenue Fund. 352,066

From Federal Funds and Other Funds 143,735

For operation of institutional facilities, related services, utilities,
 systems furniture, structural modifications, and related expenses
 Expense and Equipment

From State Fair Fees Fund. 303,131

Total. \$1,201,827

SECTION 13.045.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Natural Resources

For the payment of real property leases, related services, utilities, systems
 furniture, structural modifications, and related expenses
 Expense and Equipment

From General Revenue Fund..	\$280,432
From Federal Funds and Other Funds	1,645,490

For operation of state-owned facilities, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund..	330,253
From Federal Funds and Other Funds..	<u>1,142,851</u>
Total.	\$3,399,026

SECTION 13.050.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Economic Development

For the payment of real property leases, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund..	\$105,548
From Federal Funds and Other Funds	2,857,092

For operation of state-owned facilities, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund..	246,737
From Federal Funds and Other Funds..	<u>1,349,061</u>
Total.	\$4,558,438

SECTION 13.055.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Insurance, Financial Institutions and

Professional Registration

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From Other Funds.	\$105,032

For operation of state-owned facilities, related services, utilities, systems
furniture, structural modifications, and related expenses

Expense and Equipment	
From Other Funds.	<u>911,526</u>
Total.	\$1,016,558

SECTION 13.060.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Labor and Industrial Relations

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund..	\$10,344
From Federal Funds and Other Funds..	453,345

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund.	61,722
From Federal Funds and Other Funds.	<u>1,615,857</u>
Total.	\$2,141,268

SECTION 13.065.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Public Safety

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund.	\$475,839
From Federal Funds	<u>56,616</u>

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund.	277,964
From Federal Funds and Other Funds	<u>132,991</u>

For operation of institutional facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund.	<u>2,060,437</u>
Total.	\$3,003,847

SECTION 13.070.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Public Safety

For the State Highway Patrol

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund.	\$160,703
From Federal Funds and Other Funds...	<u>1,285,463</u>

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From Other Funds	<u>119,675</u>

For operation of institutional facilities, related services, utilities,
systems furniture, structural modifications, and related expenses

Expense and Equipment	
From General Revenue Fund.	171,856
From Federal Funds and Other Funds.	<u>1,597,963</u>
Total.	\$3,335,660

SECTION 13.075.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Public Safety

For the Adjutant General

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From Federal Funds. \$1,043,333E

For operation of institutional facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund. 705,488
From Federal Funds and Other Funds 3,393,342E
Total. \$5,142,163

SECTION 13.080.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For the Department of Public Safety

For the Gaming Commission

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From Gaming Commission Fund. \$593,890

SECTION 13.085.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For the Department of Corrections

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund. \$7,785,276
From Working Capital Revolving Fund. 183,686

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund. 1,038,210

For operation of institutional facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund. 41,869,299
From Working Capital Revolving Fund. 1,013,331
Total. \$51,889,802

SECTION 13.090.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For the Department of Mental Health

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment
From General Revenue Fund. \$2,839,837
From Federal Funds 4,849

For operation of state-owned facilities, related services, utilities,

systems furniture, structural modifications, and related expenses Expense and Equipment	
From General Revenue Fund.	446,367
From Federal Funds and Other Funds	227,551
For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment	
From General Revenue Fund.	13,677,385
For payment of real property leases, operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses at Bellefontaine Habilitation Center, St. Louis, Missouri	
From General Revenue Fund.	<u>1</u>
Total.	\$17,195,990

SECTION 13.095.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Health and Senior Services

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund.	\$1,987,698
From Federal Funds	2,354,136

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment	
From General Revenue Fund.	705,828
From Federal Funds and Other Funds.	<u>1,121,656</u>
Total.	\$6,169,318

SECTION 13.100.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Social Services

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund.	\$11,475,796
From Federal Funds and Other Funds...	6,327,641

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment	
From General Revenue Fund.	5,680,884
From Federal Funds and Other Funds	761,831

For operation of institutional facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment	
From General Revenue Fund.	512,083

From Federal Funds.	698,027
Total.	<u>\$25,456,262</u>

SECTION 13.105.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Governor's Office

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. \$347,683

SECTION 13.110.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Lieutenant Governor's Office

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. \$37,000

SECTION 13.115.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the State Legislature

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. \$8,818

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and EquipmentFrom General Revenue Fund. 1,975,650Total. \$1,984,468**SECTION 13.120.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Secretary of State

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. \$856,286

For operation of state-owned facilities, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From General Revenue Fund. 1,080,914

From Other Funds. 42,606Total. \$1,979,806**SECTION 13.125.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the State Auditor

For the payment of real property leases, related services, utilities,

systems furniture, structural modifications, and related expenses Expense and Equipment From General Revenue Fund.	\$22,491
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For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment From General Revenue Fund.	243,582
Total.	\$266,073

SECTION 13.130.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Attorney General

For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment From General Revenue Fund.	\$542,619
From Federal Funds and Other Funds.	363,132

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment From General Revenue Fund.	453,477
From Federal Funds and Other Funds.	242,559
Total.	\$1,601,787

SECTION 13.135.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the State Treasurer

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment From Other Funds.	\$231,699
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SECTION 13.140.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Judiciary

For the payment of real property leases, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment From General Revenue Fund.	\$2,416,280
From Federal Funds and Other Funds	185,556

For operation of state-owned facilities, related services, utilities, systems furniture, structural modifications, and related expenses Expense and Equipment From General Revenue Fund.	270,948
Total.	\$2,872,784

SECTION 13.145.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the payment of rent shortfalls and other contingency needs of real

property leases, state-owned facilities, related services, utilities,
 systems furniture, structural modifications, and related expenses
 Expense and Equipment
 From General Revenue Fund. \$300,000

BILL TOTALS

General Revenue Fund. \$109,955,809
 Federal Funds. 23,609,434
 Other Funds. 13,073,450
 Total. \$146,638,693

Approved June 27, 2008

HB 2014 [CCS SCS HCS HB 2014]
APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for purchase of equipment, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2008.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2008, as follows:

SECTION 14.005.— To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School Foundation

Program as provided in Chapter 163, RSMo, as follows: At least
 \$29,231,681 for the foundation formula; and no more than \$2,500,000
 for Early Childhood Special Education

From Lottery Proceeds Fund. \$31,731,678E
 From State School Moneys Fund. 1E
 From Outstanding Schools Trust Fund. 1E
 From Classroom Trust Fund. 1E
 Total. \$31,731,681E

SECTION 14.010.— To the Department of Elementary and Secondary Education

For courses, exams, and other expenses that lead to high school students
 receiving college credit and Advanced Placement and examination
 fees for low-income families

From Federal Funds. \$15,000

SECTION 14.015.— To the Department of Elementary and Secondary Education

For special education excess costs

From General Revenue Fund. \$1,964,263
 From Lottery Proceeds Fund. 957,300
 Total. \$2,921,563

SECTION 14.020.— To the Department of Elementary and Secondary Education
For the Sheltered Workshops Program
From General Revenue Fund. \$1,500,000

SECTION 14.025.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the State School Moneys Fund
From General Revenue Fund. \$18,467,992E

SECTION 14.030.— To the Department of Higher Education
Funds are to be transferred out of the State Treasury, chargeable to the
funds listed below, to the Academic Scholarship Fund
From General Revenue Fund. \$300,000
From Advantage Missouri Trust Fund. 330,000
Total. \$630,000

SECTION 14.035.— To the Department of Higher Education
For the Higher Education Academic Scholarship Program pursuant to
Chapter 173, RSMo
From Academic Scholarship Fund. \$630,000E

SECTION 14.040.— To The Department of Higher Education
For the Public Service Officer or Employee Survivor Grant Program
pursuant to Section 173.260, RSMo
From General Revenue Fund. \$24,000

SECTION 14.042.— To the Department of Higher Education
For the Advantage Missouri Program pursuant to Chapter 173, RSMo
From Advantage Missouri Trust Fund. \$800E

SECTION 14.045.— To the Department of Revenue
Expense and Equipment
From General Revenue Fund. \$269,216
From Health Initiatives Fund 201
From Motor Vehicle Commission Fund 1,684
From Conservation Commission Fund. 50
From Department of Revenue Information Fund. 7,665
From State Highways and Transportation Department Fund. 71,046
Total. \$349,862

SECTION 14.055.— Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the State Highways and
Transportation Department Fund, for reimbursement of collection
expenditures in excess of the three percent limit established by
Article IV, Sections 29, 30(a), 30(b), and 30(c)
From General Revenue Fund. \$704,149

SECTION 14.060.— To the Department of Agriculture
For the purchase of motor fuel department-wide
Expense and Equipment
From General Revenue Fund. \$44,680
From Federal Funds and Other Funds. 103,782

Total. \$148,462

SECTION 14.075.— To the Department of Agriculture

For the Missouri State Fair

 Personal Service. \$51,983
 Expense and Equipment. 521,863
From General Revenue Fund. \$573,846

SECTION 14.080.— To the Department of Natural Resources

For the Division of Geology and Land Survey

 Personal Service. \$23,606
 Expense and Equipment. 12,362
From Geologic Resources Fund. \$35,968

SECTION 14.085.— To the Department of Economic Development

For the Division of Tourism

For the purpose of funding up to \$100,000 for hosting the National Association
of Counties conference in Kansas City

From General Revenue Fund. \$100,000

 Expense and Equipment
From Division of Tourism Supplemental Revenue Fund. 40,474
Total. \$140,474

SECTION 14.090.— To the Department of Insurance, Financial Institutions
and Professional Registration

For Insurance Operations

 Personal Service. \$740,358
 Expense and Equipment. 400,209
From Insurance Dedicated Fund. \$1,140,567

SECTION 14.095.— To the Department of Insurance, Financial Institutions
and Professional Registration

For the purpose of funding programs providing counseling on health
insurance coverage and benefits to Medicare beneficiaries

From Federal Funds. \$100,000

SECTION 14.105.— To the Department of Insurance, Financial Institutions
and Professional Registration

For the Missouri Real Estate Commission

 Expense and Equipment
From Missouri Real Estate Commission Fund. \$3,126

SECTION 14.106.— To the Department of Labor and Industrial Relations

For the State Board of Mediation

 Personal Service. \$21,419
 Expense and Equipment. 6,180
From General Revenue Fund. \$27,599

SECTION 14.110.— To the Department of Public Safety

For the Capitol Police

 Personal Service

From General Revenue Fund. \$120,000

SECTION 14.115.— To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service

From General Revenue Fund. \$398,351

SECTION 14.120.— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including
aircraft and Gaming Commission vehicles

From General Revenue Fund. \$85,412

From Gaming Commission Fund. 137,711

From State Highways and Transportation Department Fund. 547,899

Total. \$771,022

SECTION 14.125.— To the Department of Public Safety

For the State Water Patrol

For the purchase of motor fuel

From General Revenue Fund. \$250,575

SECTION 14.130.— Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Missouri State Water
Patrol Fund

From General Revenue Fund. \$959,762

SECTION 14.135.— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

Expense and Equipment

From General Revenue Fund. \$19,706

SECTION 14.140.— To the Department of Public Safety

For the Division of Fire Safety

Personal Service and/or Expense and Equipment, provided that not
more than twenty percent (20%) flexibility is allowed between
each appropriation

From General Revenue Fund. \$69,155

From Elevator Safety Fund. 4,000

From Boiler and Pressure Vessels Safety Fund 4,000

From Missouri Explosives Safety Act Administration Fund.. . . . 78,292

Total. \$155,447

SECTION 14.145.— To the Adjutant General

For activities in support of the Guard, including the National Guard

Tuition Assistance Program and the Military Honors Program

Expense and Equipment

From the Missouri National Guard Trust Fund.. . . . \$250,000

SECTION 14.147.— To the Department of Corrections

For the Division of Human Services

For the purchase, transportation, and storage of food and food service

items, and operational expenses of food preparation facilities at all
correctional institutions
Expense and Equipment
From General Revenue Fund..... \$1,672,567

SECTION 14.150.— To the Department of Corrections
For the Division of Offender Rehabilitative Services
For the purpose of funding contractual services for offender physical
and mental health care
From General Revenue Fund..... \$4,189,672

SECTION 14.155.— To the Department of Mental Health
For the purchase of motor fuel department-wide
From General Revenue Fund..... \$293,180

SECTION 14.160.— To the Department of Mental Health
For the purpose of paying overtime to state employees and/or paying
otherwise authorized personal service expenditures in lieu of such
overtime payments. Nonexempt state employees identified by
Section 105.935, RSMo, will be paid first with any remaining
funds being used to pay overtime to any other state employees
From General Revenue Fund..... \$3,560,621

SECTION 14.165.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding pharmacy services
From Federal Funds..... \$658,511

SECTION 14.170.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding adult community programs
From General Revenue Fund..... \$92,500
From Federal Funds..... 157,500
Total..... \$250,000

SECTION 14.175.— To the Department of Health and Senior Services
For the Division of Community and Public Health
For the purpose of funding sexual assault forensic exams and related expenses
From General Revenue Fund..... \$948,025

SECTION 14.180.— To the Department of Health and Senior Services
For the Division of Senior and Disability Services
For the purpose of funding respite care, homemaker chore, personal care,
advanced personal care, adult day care, AIDS, children's waiver services,
and other related services under the MO HealthNet fee-for-service
and managed care programs. Provided that individuals eligible for
or receiving nursing home care must be given the opportunity to
have those MO HealthNet dollars follow them to the community
to the extent necessary to meet their unmet needs as determined
by 19 CSR 30 81.030 and further be allowed to choose the
personal care program option in the community that best meets
the individuals' unmet needs. This includes the Consumer Directed

MO HealthNet State Plan. And further provided that individuals eligible for the MO HealthNet Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet needs as determined by 19 CSR 30 81.030; and also be allowed to have their MO HealthNet funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute. Upon receipt of a referral for MO HealthNet funded home and community-based care containing a nurse assessment or physician's order, the department shall review the recommendations regarding services and process the referral within 15 business days. When information contained in the referral is sufficient to establish eligibility for MO HealthNet funded long-term care and determine the level of service need as required pursuant to state and federal regulations, the department shall prior-authorize Home and Community-based services and arrange for the provision of services. MO HealthNet reimbursement for personal care benefits shall be effective the date of the assessment or physician's order. MO HealthNet reimbursement for Waiver services shall be effective the date the state develops and approves the care plan. At such time the state shall notify the referring entity. The in-home provider shall be reimbursed a minimum of one and no more than two authorized nurse visits to make the initial nurse assessment. When information is insufficient or the proposed care plan requires additional evaluation by state staff that is not obtainable from the referring entity, the department shall inform the provider and contact the individual to schedule an in-home assessment to be conducted by the state staff within 30 days

From General Revenue Fund.	\$2,229,209
From Federal Funds.	<u>3,544,243</u>
Total.	\$5,773,452

SECTION 14.185.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Child Support Enforcement field staff and operations

Expense and Equipment

From General Revenue Fund.	\$1,175,127
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SECTION 14.190.— To the Department of Social Services

For the Children's Division

For the payments of attorney fees

From General Revenue Fund.	\$18,632
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SECTION 14.195.— To the Department of Social Services

For the Division of Youth Services

For the payment of attorney fees

From General Revenue Fund.	\$38,099
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SECTION 14.200.— To the Department of Social Services

For the MO HealthNet Division

Expense and Equipment

From General Revenue Fund..	\$71,505
From Federal Funds	94,756
From Uncompensated Care Fund..	<u>94,756</u>
Total.	\$261,017

SECTION 14.210.— To the Department of Social Services
For the MO HealthNet Division

For the purpose of supplementing appropriations for any medical service
under the MO HealthNet fee-for-service, managed care, or State
Medical programs, including related services and for the treatment
of Sickle Cell Disease using the comprehensive chronic care risk
management model as implemented by the state's Chronic Care
Improvement Program

From Federal Funds.	\$1,099,054
From Uncompensated Care Fund..	<u>324,718</u>
Total.	\$1,423,772

SECTION 14.215.— To the Secretary of State

Personal Service and/or Expense and Equipment

From General Revenue Fund..	\$156,524
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SECTION 14.220.— To the Office of the State Public Defender

For the purpose of funding the State Public Defender System
Expense and Equipment

From General Revenue Fund..	\$145,680
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SECTION 14.225.— To the House of Representatives

Mileage of Members

From General Revenue Fund..	\$40,000
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SECTION 14.230.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the payment of rent shortfalls and other contingency needs

From General Revenue Fund..	\$1,035,286
From Federal and Other Funds.	<u>246,584</u>
Total.	\$1,281,870

SECTION 14.235.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Public Safety

For the State Highway Patrol

For the payment of real property leases, related services, utilities,
systems furniture, structural modifications, and related expenses
Expense and Equipment

From State Highways and Transportation Department Fund..	\$19,901
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SECTION 14.237.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For maintenance, repairs, replacements, and improvements at the
Governor's Mansion

From Facilities Maintenance Reserve Fund..	\$3,000,000
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BILL TOTALS

General Revenue Fund.	\$41,545,333
Federal Funds.	5,796,942
Other Funds.	<u>35,963,053</u>
Total.	\$83,305,328

Approved April 22, 2008

HB 2015 [HB 2015]**APPROPRIATIONS: SUPPLEMENTAL PURPOSES FOR THE DEPARTMENT OF SOCIAL SERVICES.**

AN ACT to appropriate money for supplemental purposes for the Department of Social Services, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2008.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2008, as follows:

SECTION 15.005.— There is transferred out of the State Treasury,
chargeable to the General Revenue Fund, to the Utilicare
Stabilization Fund for the purpose of funding the Low Income
Home Energy Assistance Program

From General Revenue Fund. \$6,440,785

SECTION 15.010.— To the Department of Social Services
For the Low Income Home Energy Assistance Program

From Utilicare Stabilization Fund. \$6,440,785

BILL TOTALS

From General Revenue Fund \$6,440,785

Approved February 1, 2008

HB 2016 [HCS HB 2016]**APPROPRIATIONS: CAPITAL IMPROVEMENTS.**

AN ACT to appropriate money for capital improvement and other purposes for several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, from the funds herein designated for the period beginning July 1, 2008 and ending June 30, 2009.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30, 2009 the unexpended balances available as of June 30, 2008 but not to exceed the amounts stated herein, as follows:

SECTION 16.005.— To the University of Missouri

For planning, design, renovation, and construction at the Ellis Fischel
Cancer and Medical Education Center on the Columbia campus
Representing expenditures originally authorized under the provisions
of House Bill Section 19.005, an act of the 94th General Assembly,
Second Regular Session

From Lewis and Clark Discovery Fund. \$31,182,000

SECTION 16.010.— To the University of Missouri

For planning, design, renovation, and construction of the Pharmacy and
Nursing Building on the Kansas City campus
Representing expenditures originally authorized under the provisions
of House Bill Section 19.010, an act of the 94th General Assembly,
Second Regular Session

From Lewis and Clark Discovery Fund. \$15,000,000

SECTION 16.015.— To Missouri State University

For start-up costs of a joint engineering program with Missouri University
of Science and Technology, including but not limited to laboratory
development, equipment purchases, and laboratory set-up
Representing expenditures originally authorized under the provisions
of House Bill Section 20.005, an act of the 94th General Assembly,
Second Regular Session

From General Revenue Fund. \$500,000

SECTION 16.020.— To the University of Missouri

For start-up costs at the Missouri University of Science and Technology
for a joint engineering program with Missouri State University, including
but not limited to distance education facility development, equipment
purchases, laboratory development, and course development
Representing expenditures originally authorized under the provisions
of House Bill Section 20.010, an act of the 94th General Assembly,
Second Regular Session

From General Revenue Fund. \$500,000

SECTION 16.025.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For construction, renovations, and improvements at the Environmental
Control Center in Jefferson City
Representing expenditures originally authorized under the provisions
of House Bill Section 20.015, an act of the 94th General Assembly,
Second Regular Session

From General Revenue Fund. \$2,352,000

SECTION 16.026.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For maintenance, repairs, replacements, and improvements at the

Governor's Mansion
Representing expenditures originally authorized under the provisions
of House Bill Section 14.237, an act of the 94th General Assembly,
Second Regular Session
From Facilities Maintenance Reserve Fund. \$3,000,000

SECTION 16.030.— To the Office of Administration
For the Department of Agriculture
For planning, design, construction, and improvements of existing campsites
at the Missouri State Fairgrounds
Representing expenditures originally authorized under the provisions
of House Bill Section 20.020, an act of the 94th General Assembly,
Second Regular Session
From General Revenue Fund. \$1,505,902

SECTION 16.035.— To the Department of Natural Resources
For the Division of State Parks
For adjacent land purchases
Representing expenditures originally authorized under the provisions
of House Bill Section 20.025, an act of the 94th General Assembly,
Second Regular Session
From State Park Earnings Fund. \$661,000

SECTION 16.040.— To the Department of Natural Resources
For the Division of State Parks
For capital improvement expenditures from recoupments, donations, and grants
Representing expenditures originally authorized under the provisions
of House Bill Section 20.030, an act of the 94th General Assembly,
Second Regular Session
From Federal Funds and Other Funds. \$100,000E

SECTION 16.045.— To the Department of Conservation
For stream access acquisition and development; lake site acquisition and
development; financial assistance to other public agencies or in partnership
with other public agencies; land acquisition for upland wildlife, state forests,
wetlands, and natural areas and additions to existing areas; for major
improvements and repairs (including materials, supplies and labor) to
buildings, roads, hatcheries, and other departmental structures; and for
soil conservation activities and erosion control on department land
Representing expenditures originally authorized under the provisions
of House Bill Section 21.005, an act of the 94th General Assembly,
Second Regular Session
From Conservation Commission Fund. \$10,000,000

SECTION 16.060.— To the Office of Administration
For the Department of Public Safety
For planning, design, and installation of new emergency generators at
veterans' homes statewide
Representing expenditures originally authorized under the provisions
of House Bill Section 20.045, an act of the 94th General Assembly,
Second Regular Session
From Veterans' Commission Capital Improvement Trust Fund. \$3,988,767

SECTION 16.065.— To the Office of Administration

For the Department of Public Safety

For construction, renovations, and improvements at the Cape Girardeau
Veterans' HomeRepresenting expenditures originally authorized under the provisions
of House Bill Section 20.050, an act of the 94th General Assembly,
Second Regular Session

From Veterans' Commission Capital Improvement Trust Fund. \$520,423

From Federal Funds. 1E

Total. \$520,424

SECTION 16.070.— To the Office of Administration

For the Adjutant General - Missouri National Guard

For design and construction of National Guard facilities statewide

Representing expenditures originally authorized under the provisions
of House Bill Section 20.055, an act of the 94th General Assembly,
Second Regular Session

From Federal Funds. \$4,000,000E

SECTION 16.075.— To the Office of Administration

For the Department of Corrections

For planning, design, and construction of community supervision centers
statewideRepresenting expenditures originally authorized under the provisions
of House Bill Section 20.060, an act of the 94th General Assembly,
Second Regular Session

From Federal Funds. \$2,000,000

SECTION 16.080.— To the Office of Administration

For the Department of Social Services

For planning, design, and construction of a water tower at the W.E. Sears
Youth CenterRepresenting expenditures originally authorized under the provisions
of House Bill Section 20.065, an act of the 94th General Assembly,
Second Regular Session

From General Revenue Fund. \$428,482

Approved June 27, 2008

HB 2019 [HB 2019]

APPROPRIATIONS: SUPPLEMENTAL PURPOSES FOR THE UNIVERSITY OF MISSOURI.

AN ACT to appropriate money for supplemental purposes for the University of Missouri, for the purchase of equipment, and for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements, from the funds designated for the fiscal period ending June 30, 2008.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the university and purpose designated, for the period ending June 30, 2008, as follows:

SECTION 19.005.— To the University of Missouri
For planning, design, renovation, and construction of a new Ellis Fischel
Cancer Center on the Columbia campus
From Lewis and Clark Discovery Fund. \$31,182,000

SECTION 19.010.— To the University of Missouri
For planning, design, renovation, and construction of the Pharmacy and
Nursing Building on the Kansas City campus
From Lewis and Clark Discovery Fund. \$15,000,000

BILL TOTALS
From Other Funds. \$46,182,000

Approved February 25, 2008

HB 2020 [SS SCS HB 2020]

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, for the purchase of equipment, and for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements, from the funds designated for the fiscal period ending June 30, 2008.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2008, as follows:

SECTION 20.005.— To Missouri State University
For start-up costs of a joint engineering program with Missouri
University of Science and Technology, including but not limited to
laboratory development, equipment purchases, and laboratory set-up
From General Revenue Fund. \$500,000

SECTION 20.010.— To the University of Missouri
For start-up costs at the Missouri University of Science and Technology
for a joint engineering program with Missouri State University,
including but not limited to distance education facility development,
equipment purchases, laboratory development, and course development
From General Revenue fund. \$500,000

SECTION 20.015.— To the Office of Administration
For the Division of Facilities Management, Design and Construction
For construction, renovations, and improvements at the Capitol Complex
in Jefferson City

From General Revenue Fund. \$2,352,000

SECTION 20.020.— To the Office of Administration

For the Department of Agriculture

For planning, design, construction, and improvements of existing campsites
at the Missouri State Fairgrounds

From General Revenue Fund. \$1,505,902

SECTION 20.025.— To the Department of Natural Resources

For the Division of State Parks

For adjacent land purchases

From State Parks Earnings Fund. \$661,000

SECTION 20.030.— To the Department of Natural Resources

For the Division of State Parks

For capital improvement expenditures from recoupments, donations, and grants

From Federal Funds and Other Funds. \$100,000E

SECTION 20.045.— To the Office of Administration

For the Department of Public Safety

For planning, design, and installation of new emergency generators at veterans'
homes statewide

From Veterans' Commission Capital Improvement Trust Fund. \$3,988,767

SECTION 20.050.— To the Office of Administration

For the Department of Public Safety

For construction, renovations, and improvements at the Cape Girardeau
Veterans' Home

From Veterans' Commission Capital Improvement Trust Fund. \$520,423

From Federal Funds. 1E

Total. \$520,424

SECTION 20.055.— To the Office of Administration

For the Adjutant General - Missouri National Guard

For design and construction of National Guard facilities statewide

From Federal Funds. \$4,000,000E

SECTION 20.060.— To the Office of Administration

For the Department of Corrections

For planning, design, and construction of community supervision centers
statewide

From Federal Funds. \$2,000,000

SECTION 20.065.— To the Office of Administration

For the Department of Social Services

For planning, design, and construction of a water tower at the W.E. Sears
Youth Center

From General Revenue Fund. \$428,482

BILL TOTALS

General Revenue Fund. \$5,286,384

Federal Funds. 6,050,001

Other Funds.	5,220,190
Total.	\$16,556,575

Approved March 13, 2008

HB 2021 [HB 2021]

APPROPRIATIONS: SUPPLEMENTAL PURPOSES FOR DEPARTMENT OF CONSERVATION.

AN ACT to appropriate money for supplemental purposes for the Department of Conservation, for the purchase of equipment, and for planning, expenses, and for capital improvements including but not limited to major additions and renovations, new structures, and land improvements or acquisitions, from the funds designated for the fiscal period ending June 30, 2008.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2008, as follows:

SECTION 21.005.— To the Department of Conservation
 For stream access acquisition and development; lake site acquisition
 and development; financial assistance to other public agencies or in
 partnership with other public agencies; land acquisition for upland
 wildlife, state forests, wetlands, and natural areas and additions to
 existing areas; for major improvements and repairs (including
 materials, supplies and labor) to buildings, roads, hatcheries, and
 other departmental structures; and for soil conservation activities
 and erosion control on department land
 From Conservation Commission Fund. \$10,000,000

BILL TOTALS

From Other Funds. \$10,000,000

Approved January 30, 2008

HB 2022 [HB 2022]

APPROPRIATIONS: SUPPLEMENTAL PURPOSES FOR DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for supplemental purposes for the Department of Public Safety, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2008.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2008, as follows:

SECTION 22.005.— Funds are to be transferred out of the State Treasury,
chargeable to the General Revenue Fund to the MoSMART Fund
From General Revenue Fund. \$1,872,261

SECTION 22.010.— To the Department of Public Safety
For the Office of the Director
For the Missouri Sheriff Methamphetamine Relief Taskforce (MoSMART)
Program, provided that not more than two percent (2%) of this
appropriation be used for actual and necessary expenses for the
administration of MoSMART grants
From MoSMART Fund. \$1,872,261

BILL TOTALS

From General Revenue Fund \$1,872,261

Approved February 1, 2008

HB 2023 [CCS SCS HCS HB 2023]

APPROPRIATIONS: CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for planning, expenses, and for capital improvements including,
but not limited to, major additions and renovations, new structures, and land improvements
or acquisitions, and to transfer money among certain funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, for the agency, program, and purpose stated,
chargeable to the fund designated for the period beginning July 1, 2008 and ending June 30,
2009, as follows:

SECTION 23.003.— To the Office of Administration
For the Department of Elementary and Secondary Education
For the design, renovation, construction, and improvements of
vocational technical schools. Local matching funds must be
provided on a 50/50 state/local match rate in order to be
eligible for state funds
For vocational education facilities in Columbia. \$5,305,923
For vocational education facilities in Hannibal. 1,144,180
For vocational education facilities in Waynesville 5,750,000
For vocational education facilities in Carthage. 2,150,000
For vocational education facilities in Chillicothe 1,137,500
For vocational education facilities in Hillyard. 50,000
For vocational education facilities in Mexico. 725,000
From General Revenue Fund. 16,262,603

For vocational education facilities in Camdenton 1,250,000
For vocational education facilities in Poplar Bluff. 250,000
For vocational education facilities in Eldon 329,240
For vocational education facilities in Monett. 4,500,000

From Lottery Proceeds Fund	6,329,240
Total.	\$22,591,843

SECTION 23.004.— To Missouri Southern State University
 For a building at the athletic complex to provide weather shelter
 From General Revenue Fund. \$2,000,000

SECTION 23.005.— To Linn State Technical College
 For the planning, design, and construction of a new facility for
 heavy equipment technology
 From Lottery Proceeds Fund. \$10,000,000

SECTION 23.009.— To Southeast Missouri State University
 For debt service payments for the Sikeston facilities. \$400,000
 For renovation and improvements at Perryville facilities 420,000
 From Lottery Proceeds Fund. \$820,000

SECTION 23.010.— To the University of Missouri
 For planning, design, renovation, construction and/or purchase of a facility
 for the Thompson Center for Autism and Neurodevelopmental Disorders
 From General Revenue Fund. \$5,000,000

SECTION 23.012.— To the University of Missouri
 For the planning and design of a new Nursing and Optometry School on
 the St. Louis campus
 From Bingo Proceeds for Education Fund. \$300,000

SECTION 23.015.— To the University of Missouri
 For the planning and design of a new State Historical Society building
 From General Revenue Fund. \$600,000

SECTION 23.019.— To the University of Missouri
 For the planning and design of a new Nursing/Health Professions School
 on the Columbia campus
 From Bingo Proceeds for Education Fund. \$300,000

SECTION 23.020.— To the University of Missouri
 For planning money to research expansion options for the existing dental school
 on the Kansas City campus
 From Lottery Proceeds Fund. \$300,000

SECTION 23.021.— To the University of Missouri
 For the planning, design, renovation and improvements at Missouri
 Agricultural Experiment Station facilities
 From General Revenue Fund. \$2,000,000

SECTION 23.025.— To the Department of Transportation
 For Port Authority Capital Improvements
 For infrastructure development of Missouri ports
 For the Howard/Cooper County Port Authority. \$84,000
 For the Pemiscot County Port Authority 3,066,000
 For the New Bourbon Regional Port Authority. 550,000

For the New Madrid County Port Authority	1,150,000
For the Southeast Missouri Regional Port Authority	1,046,558
For the City of St. Louis Port Authority	225,000
For the St. Joseph Regional Port Authority.	<u>528,442</u>
From General Revenue Fund.	\$6,650,000

SECTION 23.026.— To the Department of Transportation

For the Rail Program

For the planning, design, construction, and/or improvement of sidetrack
along the railroad tracks utilized by Amtrak passenger trains that receive
an operating subsidy from the State of Missouri

From General Revenue.	\$5,000,000
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SECTION 23.030.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For appraisals, land surveys, and environmental surveys of state facilities

From General Revenue Fund.	\$250,000
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***SECTION 23.032.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For planning, design, and construction of a special needs sports
complex in Kansas City

From General Revenue Fund.	\$25,000
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*I hereby veto \$25,000 General Revenue for the planning and construction of a sports complex in Kansas City. These funds were not part of my original budget and were not requested by any department. Typically, the state does not fund such projects. In addition, funds to complete the undertaking have not been identified.

Said section is vetoed in its entirety from \$25,000 to \$0 General Revenue Fund.

MATT BLUNT, GOVERNOR**SECTION 23.035.**— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For planning, design, renovation, and construction for a disaster
recovery remote data center

From General Revenue Fund.	\$1,960,606
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SECTION 23.040.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For planning, design, renovation, maintenance, repair, and construction
for security upgrades and other improvements at the Capitol
Building and Governor's Mansion

From General Revenue Fund.	\$2,891,186
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From Federal Funds	1E
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From Facilities Maintenance Reserve Fund.	<u>4,275,000</u>
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Total.	\$7,166,187
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SECTION 23.045.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Missouri State Penitentiary Redevelopment site

For environmental, archeological and cultural assessments; property title
and survey; demolition; building repair; utility reconfiguration; and
street design

From General Revenue Fund.	\$1,200,000
From Federal Funds.	<u>1E</u>
Total.	\$1,200,001

SECTION 23.047.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For the demolition of the old health laboratory and attached EDP Building
and pavement of the property

From Facilities Maintenance Reserve Fund.	\$1,700,000
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SECTION 23.048.— To the Office of Administration

For the Division of Facilities Management, Design and Construction
For demolition and relocation of the current surplus property facility, and
construction of a new surplus property facility at Church Farm

From Federal Surplus Property Fund.	\$1,750,000
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SECTION 23.049.— To the Office of Administration

For the Secretary of State
For the purchase, lease-purchase, renovation, improvements, and/or repairs of
a facility for state archives

From General Revenue Fund.	\$7,000,000
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SECTION 23.050.— To the Department of Natural Resources

For the Division of State Parks
For design, renovation, construction, and improvements of interpretive
sites throughout the state

From State Park Earnings Fund.	\$700,000
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SECTION 23.055.— To the Department of Natural Resources

For the Division of State Parks
For acquisition, restoration, development, and maintenance of historic
properties pursuant to Chapter 253, RSMo

From Historic Preservation Revolving Fund.	\$1,000,000
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SECTION 23.060.— To the Department of Natural Resources

For the Division of State Parks
For design, renovation, construction, and improvements at State Parks

From State Park Earnings Fund.	\$1,655,000
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SECTION 23.061.— To the Department of Natural Resources

For Division of State Parks
For the acquisition of property in Bates County, Missouri

From State Park Earnings Fund.	\$140,000
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SECTION 23.062.— To the Department of Natural Resources

For Division of State Parks
For adjacent land purchases

From State Park Earnings Fund.	\$639,000
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SECTION 23.063.— To the Department of Natural Resources
 For Division of State Parks
 For maintenance, repairs, replacements, renovations, and improvements at
 park and campground facilities statewide
 From State Park Earnings Fund. \$1,300,000

***SECTION 23.064.**— To the Department of Natural Resources
 For the Division of State Parks
 For renovation and preservation of the historic Jackson County Courthouse
 in Independence where the 33rd President, Harry S. Truman served
 From General Revenue Fund. \$500,000

*I hereby veto \$500,000 General Revenue for renovation and preservation of the historic Jackson County Courthouse in Independence. This represents just the beginning of a large, multi-year, local capital improvement project. Typically, the state does not fund projects of this nature. In addition, funds to complete the undertaking have not been identified.

Said section is vetoed in its entirety from \$500,000 to \$0 General Revenue Fund.

MATT BLUNT, GOVERNOR

SECTION 23.065.— To the Department of Conservation
 For stream access acquisition and development; lake site acquisition and
 development; financial assistance to other public agencies or in
 partnership with other public agencies including, but not limited to
 infrastructure and equipment for statewide interoperability; land
 acquisition for upland wildlife, state forests, wetlands, and natural
 areas and additions to existing areas; for major improvements and
 repairs (including materials, supplies, and labor) to buildings, roads,
 hatcheries, and other departmental structures; and for soil conservation
 activities and erosion control on department land
 From Conservation Commission Fund. \$36,000,000

SECTION 23.067.— To the Office of Administration
 For the Department of Economic Development
 For the purpose of funding renovations and upgrades for a battery and
 energetic device project in Joplin
 From General Revenue Fund. \$625,000

SECTION 23.070.— To the Office of Administration
 For the Department of Public Safety
 For the State Highway Patrol
 For planning, design, and construction of a new commercial drivers licensing
 facility in Hannibal
 From State Highways and Transportation Department Fund. \$296,000

SECTION 23.075.— To the Office of Administration
 For the Department of Public Safety
 For the State Highway Patrol
 For planning, design, and construction of an addition to the existing crime
 lab in Jefferson City for storage of DNA samples
 From DNA Profiling Analysis Fund. \$307,560

SECTION 23.076.— To the Office of Administration

For the Department of Public Safety

For the State Highway Patrol

For planning, design, renovation and construction and/or purchase of a new
crime lab in Jasper County

From General Revenue Fund. \$629,248

From State Highways and Transportation Department Fund. 419,499

Total. \$1,048,747

SECTION 23.077.— To the Office of Administration

For the Department of Public Safety

For the State Highway Patrol

For planning, design, and construction and/or lease-purchase of a new
crime lab in Springfield

From General Revenue Fund. \$999,000

From State Highways and Transportation Department Fund. 666,000

Total. \$1,665,000

SECTION 23.080.— To the Office of Administration

For the Department of Public Safety

For planning, design, and construction of a Water Patrol Marine shop in
Jefferson City

From Missouri State Water Patrol Fund.. . . . \$804,929

SECTION 23.085.— To the Office of Administration

For the Adjutant General - Missouri National Guard

For federal environmental compliance at non-armory facilities

From Federal Funds. \$1,900,000E

SECTION 23.090.— To the Office of Administration

For the Department of Corrections

For construction, renovations, and improvements at the Ozark Correctional
Center sewer treatment plant

From General Revenue Fund. \$718,813

SECTION 23.095.— To the Office of Administration

For the Department of Mental Health

For planning money for a study of options for construction of a new
Fulton State Hospital

From General Revenue Fund. \$300,000

SECTION 23.096.— To the Office of Administration

For the Department of Mental Health

For planning, design, and construction of a new 52 bed facility at Bellefontaine
Habilitation Center

From General Revenue Fund. \$18,097,913

SECTION 23.100.— To the Office of Administration

For the Department of Social Services

For planning, design, and construction of a multi-purpose building at
Delmina Woods Park CampFrom General Revenue Fund. \$941,242

SECTION 23.105.— To the Office of Administration

For the Department of Social Services

For planning, design, and construction of a new dormitory building at

W.E. Sears Youth Center

From General Revenue Fund. \$716,836

BILL TOTALS

General Revenue Fund. \$74,367,447

Federal Funds. 1,900,002

Other Funds. 63,727,228

Total. \$139,994,677

Approved June 30, 2008

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HB 1311 [SCS HB 1311]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits any person who is in arrears for any unpaid city taxes or municipal-user fees from filing a declaration of intent to be a write-in candidate for election to any municipal office

AN ACT to repeal section 115.453, RSMo, and to enact in lieu thereof one new section relating to write-in candidates.

SECTION

A. Enacting clause.

115.453. Procedure for counting votes for candidates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 115.453, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.453, to read as follows:

115.453. PROCEDURE FOR COUNTING VOTES FOR CANDIDATES. — Election judges shall count votes for all candidates in the following manner:

(1) No candidate shall be counted as voted for, except a candidate before whose name a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear in the square preceding the name of any candidate for the same office in another column. Except as provided in this subdivision and subdivision (2) of this section, each candidate with a cross (X) mark in the square preceding his or her name shall be counted as voted for.

(2) If cross (X) marks appear next to the names of more candidates for an office than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one candidate is to be nominated or elected to an office, and any voter has voted for the same candidate more than once for the same office at the same election, no votes cast by the voter for the candidate shall be counted.

(3) No vote shall be counted for any candidate that is not marked substantially in accordance with the provisions of this section. The judges shall count votes marked substantially in accordance with this section and section 115.456 when the intent of the voter seems clear. Regulations promulgated by the secretary of state shall be used by the judges to determine voter intent. No ballot containing any proper votes shall be rejected for containing fewer marks than are authorized by law.

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the proper election authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in votes shall be counted only for candidates for election to state or federal office who have filed a declaration of intent to be a write-in candidate for election to state or federal office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the election day. No person who filed as a party or independent candidate for nomination or election to an office may, without withdrawing as provided by law, file as a write-in candidate for election to the same office for the same term. No candidate who files for nomination to an office and is not nominated at a primary election may file a declaration of intent to be a write-in candidate for the same office at the general election. When declarations are properly filed with the secretary of state, the secretary of state shall promptly transmit copies of all such declarations to the proper election authorities for further action pursuant to this section.

The election authority shall furnish a list to the election judges and counting teams prior to election day of all write-in candidates who have filed such declaration. This subdivision shall not apply to elections wherein candidates are being elected to an office for which no candidate has filed. **No person shall file a declaration of intent to be a write-in candidate for election to any municipal office unless such person is qualified to be certified as a candidate under section 115.346.**

(5) Write-in votes shall be cast and counted for a candidate without party designation. Write-in votes for a person cast with a party designation shall not be counted. Except for candidates for political party committees, no candidate shall be elected as a write-in candidate unless such candidate receives a separate plurality of the votes without party designation regardless of whether or not the total write-in votes for such candidate under all party and without party designations totals a majority of the votes cast.

(6) When submitted to the election authority, each declaration of intent to be a write-in candidate for the office of United States president shall include the name of a candidate for vice president and the name of nominees for presidential elector equal to the number to which the state is entitled. At least one qualified resident of each congressional district shall be nominated as presidential elector. Each such declaration of intent to be a write-in candidate shall be accompanied by a declaration of candidacy for each presidential elector in substantially the form set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of presidential elector shall be subscribed and sworn to by the candidate before the election official receiving the declaration of intent to be a write-in, notary public or other officer authorized by law to administer oaths.

Approved June 19, 2008

HB 1313 [HB 1313]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Gives a preference in all state purchasing contracts to certain disabled veterans doing business as Missouri companies when the quality of work is equal or better and the price is the same or less

AN ACT to amend chapter 34, RSMo, by adding thereto one new section relating to state purchasing.

SECTION

A. Enacting clause.

34.074. Disabled veterans, state and political subdivision contracts, preference to be given, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 34, RSMo, is amended by adding thereto one new section, to be known as section 34.074, to read as follows:

34.074. DISABLED VETERANS, STATE AND POLITICAL SUBDIVISION CONTRACTS, PREFERENCE TO BE GIVEN, WHEN. — **1.** As used in this section, the term "service disabled veteran" means any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

2. As used in this section, the term "service disable veteran business" means a business concern:

(1) Not less than fifty-one percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one percent of the stock of which is owned by one or more service-disabled veterans; and

(2) The management and daily business operations of which are controlled by one or more service-disabled veterans.

3. In letting contracts for the performance of any job or service, all agencies, departments, institutions, and other entities of this state and of each political subdivision of this state shall give preference to disabled veteran businesses doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. The commissioner of administration may also give such preference whenever competing bids, in their entirety, are comparable.

4. In implementing the provisions of subsection 3 of this section, the following shall apply:

(1) The commissioner of administration shall have the goal of three percent of all such contracts described in subsection 3 of this section to be let to such veterans;

(2) If no such veterans doing business in this state meet the quality of performance and price standards required in subsection 3 of this section, such preference shall not be required.

Approved June 13, 2008

HB 1341 [HCS HB 1341]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes Ethan's Law which requires the owner of a for-profit, privately owned swimming pool to maintain adequate liability insurance in the event of injury or death of a patron

AN ACT to amend chapter 316, RSMo, by adding thereto one new section relating to liability insurance of a for-profit private swimming pool or facility, with a penalty provision and an emergency clause.

SECTION

A. Enacting clause.

316.250. Ethan's Law — maintenance of adequate insurance required, when — definitions — violations, penalty.

B. Emergency clause

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 316, RSMo, is amended by adding thereto one new section, to be known as section 316.250, to read as follows:

316.250. ETHAN'S LAW — MAINTENANCE OF ADEQUATE INSURANCE REQUIRED, WHEN — DEFINITIONS — VIOLATIONS, PENALTY. — **1. This section shall be known and may be cited as "Ethan's Law".**

2. Every owner of a for-profit private swimming pool or facility shall maintain adequate insurance coverage in an amount of not less than one million dollars per occurrence for any liability incurred in the event of injury or death of a patron to such swimming pool or facility, including any liability incurred under paragraph (b) of

subdivision (3) of section 537.348, RSMo. Such owners shall be required to register with the department of public safety and provide proof of such insurance coverage at the time of registration and when requested by any state or local governmental agency responsible for the enforcement of this section.

3. As used in this section, the following terms shall mean:

(1) "Owner", the owner of the land, including but not limited to a lessee, tenant, mortgagee in possession and the person in charge of the land on which a swimming pool is located;

(2) "Swimming pool or facility", any for-profit privately-owned tank or body of water with a capacity of less than five hundred patrons which charges a fee per admission and is used and maintained for swimming or bathing purposes which has a maximum depth of greater than twenty-four inches. Swimming pool or facility shall include, but not be limited to, a swimming pool on lands in connection with the operation of any type of for-profit privately-owned amusement or recreational park. Swimming pool or facility does not include a swimming pool or facility owned by a hotel, motel, public or governmental body, agency, or authority, a naturally occurring body of water or stream, or a body of water established by a person or persons and used for watering livestock, irrigation, or storm water management.

4. Any owner who violates the provisions of this section shall not be permitted to remain in operation until such owner meets the requirements of this section. Any such owner who allows operation of a swimming pool or facility in violation of this section shall be subject to a civil penalty of two hundred fifty dollars per day for each day of continued violation up to a maximum of ten thousand dollars and may be subject to liability for the costs incurred by the state or a political subdivision for enforcing the provisions of this section. In a separate court action, the attorney general may seek reimbursement on behalf of the state and a political subdivision may seek reimbursement on behalf of the political subdivision for costs incurred as a result of enforcing the provisions of this section. For purposes of this section, "each day of the violation" means each day that the swimming pool is operational and open for business and remains in violation of this section. It shall not include days that the swimming pool is not operational and open for business.

5. In addition, any owner who intentionally violates the provisions of this section is guilty of a class A misdemeanor. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this section, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

6. The department of public safety shall implement and, with the assistance of local law enforcement agencies, enforce the provisions of this section.

7. An insurance company providing insurance coverage under this section shall notify the department of public safety if any owner of a swimming pool or facility as defined in this section terminates, cancels, or fails to renew such coverage. The department may utilize local law enforcement agencies to enforce the provisions of this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure public safety, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 6, 2008

HB 1354 [HB 1354]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Exempts certain implements of husbandry used for spraying chemicals or spreading fertilizer for agricultural purposes from the motor vehicle titling, registration, and licensing requirements

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to exempting certain types of vehicles from registration and licensing laws.

SECTION

A. Enacting clause.

301.029. Implements of husbandry, movement on highway permitted, when — definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.029, to read as follows:

301.029. IMPLEMENTS OF HUSBANDRY, MOVEMENT ON HIGHWAY PERMITTED, WHEN — DEFINITIONS. — **1. Any self-propelled sprayer, floater, or other form of implement of husbandry that is used for spraying chemicals or spreading fertilizer for agricultural purposes may be moved or operated on the highways of this state without complying with the provisions of this chapter relating to titling, registration, and the display of license plates.**

2. The exemption for titling, registration, and the display of license plates provided for in subsection 1 of this section shall apply whether the described vehicles are laden or unladen.

3. All other requirements of the law relating to motor vehicles, unless the context clearly provides otherwise, shall apply to the vehicles described in subsection 1 of this section when operated on the highways of this state.

4. As used in this section, the term "implement of husbandry" means all self-propelled machinery manufactured for operation at low speeds, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary off-road usage and used exclusively for the application of commercial plant food materials or agricultural chemicals.

Approved June 19, 2008

HB 1368 [HB 1368]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Clarifies requirements for membership on the Northwest Missouri State University Board of Regents

AN ACT to repeal section 174.332, RSMo, and to enact in lieu thereof one new section relating to Northwest Missouri State University.

SECTION

A. Enacting clause.

174.332. Northwest Missouri State University, board of regents, members, terms, appointment of, quorum requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 174.332, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 174.332, to read as follows:

174.332. NORTHWEST MISSOURI STATE UNIVERSITY, BOARD OF REGENTS, MEMBERS, TERMS, APPOINTMENT OF, QUORUM REQUIREMENTS. — **1.** Notwithstanding the provisions of section 174.050 to the contrary, the board of regents of Northwest Missouri State University shall be composed of nine members, [six of whom shall reside in the district in which the university is situated with at least one member of the board being a resident of Nodaway County and two additional members selected from any of the seven college districts as contained in section 174.010, provided that no more than one member be appointed from the same congressional district, one of which shall serve a term of three years and one of which shall serve a term of six years. All subsequent members appointed shall serve a term of six years pursuant to the provisions of section 174.070] **eight of whom shall be voting members and one who shall be a nonvoting member. Not more than four voting members shall belong to any one political party. The appointed members of the board serving on August 28, 2008, shall continue to serve until the expiration of the terms for which the appointed members were appointed and until such time a successor is duly appointed.**

2. The board of regents shall be appointed as follows:

(1) Six voting members shall be residents of the university's historic statutory service region, as described in section 174.010 and modified by section 174.250, provided at least one member shall be a resident of Nodaway County;

(2) Two voting members shall be residents of a county in the state that is outside the university's historic statutory service region, as described in section 174.010 and modified by section 174.250, provided these two members shall not be appointed from the same congressional district; and

(3) One nonvoting member shall be a full-time student of the university, a United States citizen, and a resident of Missouri.

3. A majority of the voting members of the board shall constitute a quorum for the transaction of business; however, no appropriation of money nor any contract that shall require any appropriation or disbursement of money shall be made, nor teacher employed or dismissed, unless a majority of the voting members of the board vote for the same.

4. Except as specifically provided in this section, the appointments and terms of office for the voting and nonvoting members of the board, and all other duties and responsibilities of the board, shall comply with the provisions of state law regarding boards of regents.

Approved June 25, 2008

HB 1380 [HCS HB 1380]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes allocation of property taxes collected from the Senior Citizens' Services Fund tax to senior centers for their operational and capital needs

AN ACT to repeal section 67.993, RSMo, and to enact in lieu thereof one new section relating to senior citizens' services.

SECTION

A. Enacting clause.

67.993. Fund established, when — board of directors, appointment, members, terms, vacancies, officers — duties — use of fund moneys — powers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 67.993, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.993, to read as follows:

67.993. FUND ESTABLISHED, WHEN — BOARD OF DIRECTORS, APPOINTMENT, MEMBERS, TERMS, VACANCIES, OFFICERS — DUTIES — USE OF FUND MONEYS — POWERS.

— 1. Upon the approval of the tax authorized by section 67.990 by the voters of the county or city not within a county, the tax so approved shall be imposed upon all taxable property within the county or city and the proceeds therefrom shall be deposited in a special fund, to be known as the "Senior Citizens' Services Fund", which is hereby established within the county or city treasury. No moneys in the senior citizens' services fund shall be spent until the board of directors provided for in subsection 2 of this section has been appointed and has taken office.

2. Upon approval of the tax authorized by section 67.990 by the voters of the county or city, the governing body of the county or the mayor of the city shall appoint a board of directors consisting of seven directors, who shall be selected from the county or city at large and shall, as nearly as practicable, represent the various groups to be served by the board. Each director shall be a resident of the county or city. Each director shall be appointed to serve for a term of four years and until his successor is duly appointed and qualified; except that, of the directors first appointed, one director shall be appointed for a term of one year, two directors shall be appointed for a term of two years, two directors shall be appointed for a term of three years, and two directors shall be appointed for a term of four years. Directors may be reappointed. All vacancies on the board of directors shall be filled for the remainder of the unexpired term by the governing body of the county or mayor of the city. The directors shall not receive any compensation for their services, but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties from the moneys in the senior citizens' services fund.

3. The administrative control and management of the funds in the senior citizens' services fund and all programs to be funded therefrom shall rest solely with the board of directors appointed under subsection 2 of this section; except that, the budget for the senior citizens' services fund shall be approved by the governing body of the county or city prior to making of any payments from the fund in any fiscal year. The board of directors shall use the funds in the senior citizens' services fund to provide programs which will improve the health, nutrition, and quality of life of persons who are sixty years of age or older. **The budget may allocate funds for operational and capital needs to senior-related programs in the county or city in which such property taxes are collected.** No funds in the senior citizens' services fund may be used, directly or indirectly, for any political purpose. In providing such services, the board of directors may contract with any person to provide services relating, in whole or in part, to the services which the board itself may provide under this section, and for such purpose may expend the tax proceeds derived from the tax authorized by section 67.990.

4. The board of directors shall elect a chairman, vice chairman, and such other officers as it deems necessary; shall establish eligibility requirements for the programs it furnishes; and shall do all other things necessary to carry out the purposes of sections 67.990 to 67.995. A majority of the board of directors shall constitute a quorum.

5. The board of directors, with the approval of the governing body of the county or city, may accept any gift of property or money for the use and benefit of the persons to be served through the programs established and funded under sections 67.990 to 67.995, and may sell or exchange any such property so long as such sale or exchange is in the best interests of the programs provided under sections 67.990 to 67.995 and the proceeds from such sale or exchange are used exclusively to fund such programs.

Approved June 13, 2008

HB 1384 [SS SCS HB 1384 & HB 2157]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding identity protection and gives identity theft victims the right to have an incident report filed by their law enforcement agency and receive a copy of the report

AN ACT to amend chapters 407 and 570, RSMo, by adding thereto six new sections relating to identity protection, with penalty provisions.

SECTION

- A. Enacting clause.
- 407.1380. Definitions.
- 407.1382. Security freeze may be requested, when — fee — agency duties — furnishing a credit report after freeze prohibited, exceptions — lifting of freeze, when — permanent removal, when — fee — notice.
- 407.1384. Agency liability for failure to comply, damages and equitable relief.
- 407.1385. Processing of applications for credit — effect of security freeze.
- 570.222. Identity theft — rights of victims — definition — incident reports, discretion of law enforcement not affected.
- 570.380. Manufacture or possession of five or more fake IDs prohibited, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 407 and 570, RSMo, is amended by adding thereto six new sections, to be known as sections 407.1380, 407.1382, 407.1384, 407.1385, 570.222, and 570.380, to read as follows:

407.1380. DEFINITIONS. — As used in sections 407.1380 to 407.1384, the following terms shall mean:

- (1) "Account review", activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;
 - (2) "Consumer", any individual;
 - (3) "Consumer credit reporting agency", any entity that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties. The term "consumer credit reporting agency" shall not include an entity that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer credit reporting agency and who does not maintain a permanent database of credit information from which consumer reports are produced and who does not furnish consumer reports to third parties;
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(4) "Credit report", any written or electronic communication of any information by a consumer credit reporting agency that in any way bears upon a person's credit worthiness, credit capacity, or credit standing;

(5) "Security freeze", a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or score relating to the extension of credit without the express authorization of the consumer.

407.1382. SECURITY FREEZE MAY BE REQUESTED, WHEN — FEE — AGENCY DUTIES — FURNISHING A CREDIT REPORT AFTER FREEZE PROHIBITED, EXCEPTIONS — LIFTING OF FREEZE, WHEN — PERMANENT REMOVAL, WHEN — FEE — NOTICE. — 1. A consumer may request that a consumer credit reporting agency place a security freeze on that consumer's credit report, if that request is made:

(1) In writing, where delivery by standard U.S. Postal Service mail service shall be sufficient; or

(2) By other reliable means, including, but not limited to, Internet, telephone, facsimile, or other electronic means if any such other means are provided by the consumer credit reporting agency; and

(3) Proper identification is presented to adequately identify the requestor as the consumer subject to the credit report.

2. A consumer credit reporting agency shall honor a consumer's request for a security freeze within five business days of receipt of such request. A consumer credit reporting agency may assess a fee of up to five dollars for the first request by a consumer to place a security freeze, and up to ten dollars for any subsequent request to place a security freeze made by the same consumer, except that at no time shall a fee be assessed for a request to place a security freeze if the request is accompanied by an incident report as defined under section 570.222, RSMo.

3. A consumer credit reporting agency shall, within ten business days of placing a security freeze on the consumer's credit report, send the consumer:

(1) Written confirmation of compliance with the consumer's request;

(2) Instructions explaining the process of placing, temporarily lifting, or permanently removing a security freeze and the process for allowing access to information from the consumer's credit report for a specific requestor or period of time;

(3) A unique personal identification number or password to be used by the consumer to temporarily lift or permanently remove the security freeze or designate a specific requestor for receipt of the credit report despite the security freeze.

4. A consumer credit reporting agency shall not furnish a credit report to any person if the consumer who is subject to the credit report has requested a security freeze be placed on that report unless the credit report:

(1) Is requested by the consumer who is subject to the report;

(2) Is furnished under a court order;

(3) Is furnished during a period in which the consumer has temporarily lifted the freeze;

(4) Is requested for the purposes of prescreening as provided by the Fair Credit Reporting Act under 15 U.S.C. 1681, et seq.;

(5) Is requested by a child support enforcement agency;

(6) Is requested for use in setting or adjusting a rate, underwriting, adjusting a claim, or servicing a policy for insurance purposes;

(7) Is requested by a specific person, or the subsidiary, affiliate, agent, or assignee of such person, whom the consumer has identified as eligible for receipt of the credit report under subsection 6 of this section, despite the consumer's request for a security freeze;

(8) Is furnished to a person, or the subsidiary, affiliate, agent, or assignee of such person, with whom the consumer has a debtor-creditor relationship for the purpose of account review or collecting the financial obligation owing for the account contract or debt;

(9) Is requested by the state or its agents or assigns for the purpose of investigating fraud or investigating or collecting delinquent taxes to the extent consistent with a permissible purpose under 15 U.S.C. 1681; or

(10) Is requested by a person or entity administering a credit file monitoring service or similar service to which the consumer has subscribed.

5. If a security freeze is in place, a consumer credit reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the consumer's file: name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

6. A consumer may request that the consumer credit reporting agency temporarily lift a security freeze for a specific requestor or period of time despite the consumer request for a security freeze under subsection 1 of this section, if that request is made:

(1) In writing, where delivery by standard U.S. Postal Service mail service shall be sufficient; or

(2) By other reliable means, including, but not limited to, Internet, telephone, facsimile, or other electronic means if any such other means are provided by the consumer credit reporting agency; and

(3) Proper identification is presented to adequately identify the requestor as the consumer subject to the credit report, which shall include the unique personal identification number or password issued to the consumer under subsection 3 of this section; and

(4) The time period is specified for which the freeze shall be temporarily lifted.

7. (1) A consumer credit reporting agency shall temporarily lift a security freeze within fifteen minutes of receiving such a request from a consumer, if that request is received during normal business hours and is made in accordance with subdivisions (2), (3), and (4) of subsection 6 of this section. If such a lift request is received outside of normal business hours, the consumer credit reporting agency shall lift the security freeze within fifteen minutes of the start of the next normal business day.

(2) A consumer credit reporting agency shall temporarily lift a security freeze within three days of receiving such a request from a consumer, if that request is made in accordance with subdivisions (1), (3), and (4) of subsection 6 of this section.

(3) The time frame in which a consumer credit reporting agency shall comply with a request to lift a security freeze under this subsection may be extended in the event of an act of God, an unauthorized or illegal act by a third party, operational interruption due to electrical failure or hardware or software failure, government action, or reasonable unexpected maintenance of the agency's systems, provided that the lifting of a security freeze shall occur within a reasonable time after resumption of normal business operations.

8. A consumer credit reporting agency shall permanently remove a security freeze within three days of receiving such a request from a consumer, if that request is made:

(1) In writing, where delivery by standard U.S. Postal Service mail service shall be sufficient; or

(2) By reliable means, including, but not limited to, Internet, telephone, facsimile, or other electronic means if any such other means are provided by the consumer credit reporting agency; and

(3) Proper identification is presented to adequately identify the requestor as the consumer subject to the credit report, which shall include the unique personal identification number or password issued to the consumer under subsection 3 of this section.

9. A consumer credit reporting agency may assess a fee of up to five dollars to temporarily lift a security freeze, except that at no time shall a fee be assessed for a request to temporarily lift a security freeze that was placed in conjunction with an incident report under subsection 2 of this section. No fee shall be assessed for a request to permanently remove a security freeze.

10. At any time a consumer is required to receive a summary of rights under 15 U.S.C. Section 1681g(d), the following notice shall be included:

"Missouri Consumers Have the Right to Obtain a Security Freeze.

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer credit reporting agency from releasing information in your credit report without your express authorization. A security freeze must be requested in writing by mail or via other approved methods. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a period of time after the freeze is in place. To provide that authorization you must contact the consumer credit reporting agency and provide all of the following:

- (1) The personal identification number or password;
- (2) Proper identification to verify your identity;
- (3) The proper information regarding the period of time for which the report shall be available.

A consumer credit reporting agency must authorize the release of your credit report no later than fifteen minutes after receiving the above information, under certain circumstances.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring civil action against anyone, including a consumer credit reporting agency, who improperly obtains access to a file, knowingly misuses file data, or fails to correct inaccurate file data."

407.1384. AGENCY LIABILITY FOR FAILURE TO COMPLY, DAMAGES AND EQUITABLE RELIEF. — 1. Any consumer credit reporting agency that knowingly fails to comply with the provisions of sections 407.1380 to 407.1384 shall be liable to the consumer who is subject to the credit report in an amount equal to:

- (1) Any actual damages sustained by the consumer due to such failure; and

(2) Any court costs and fees assessed in maintaining the action, as well as reasonable attorney's fees.

2. In addition to the foregoing monetary sums, a court, upon request of the damaged consumer, shall award such equitable relief as may be necessary to restore the damaged consumer's credit and to discourage future violations of sections 407.1380 to 407.1384 by the consumer credit reporting agency.

407.1385. PROCESSING OF APPLICATIONS FOR CREDIT — EFFECT OF SECURITY FREEZE. — It shall not be considered a violation of any law that requires an application for credit to be processed within a specified time frame if a creditor is unable to meet this time frame because of inability to access a credit report due to a security freeze.

570.222. IDENTITY THEFT — RIGHTS OF VICTIMS — DEFINITION — INCIDENT REPORTS, DISCRETION OF LAW ENFORCEMENT NOT AFFECTED. — 1. Notwithstanding that jurisdiction may lie elsewhere for investigation and prosecution of a crime of identity theft, victims of identity theft have the right to contact the local law enforcement agency where the victim is domiciled and request that an incident report about the identity theft be prepared and filed. The victim may also request from the local law enforcement agency to receive a copy of the incident report. The law enforcement agency may share the incident report with law enforcement agencies located in other jurisdictions.

2. As used in this section "incident report" means a loss or other similar report prepared and filed by a local law enforcement agency.

3. Nothing in this section shall interfere with the discretion of a local law enforcement agency to allocate resources for investigations of crimes or to provide an incident report as permitted in this section. An incident report prepared and filed under this section shall not be an open case for purposes of compiling open case statistics.

570.380. MANUFACTURE OR POSSESSION OF FIVE OR MORE FAKE IDs PROHIBITED, PENALTY. — Any person who manufactures or possesses five or more fictitious or forged means of identification, as defined in section 570.223, with the intent to distribute to others for the purpose of committing a crime shall be guilty of a class C felony.

Approved June 30, 2008

HB 1419 [HB 1419]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the licensing of massage therapists

AN ACT to repeal section 324.265, RSMo, and to enact in lieu thereof one new section relating to massage therapy.

SECTION

A. Enacting clause.

324.265. Massage therapists, qualifications of applicants — waiver, when — licensure term, renewal — student license, when — provisional license, when — exemptions — exemptions for certain therapists licensed in other jurisdictions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 324.265, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 324.265, to read as follows:

324.265. MASSAGE THERAPISTS, QUALIFICATIONS OF APPLICANTS — WAIVER, WHEN — LICENSURE TERM, RENEWAL — STUDENT LICENSE, WHEN — PROVISIONAL LICENSE, WHEN — EXEMPTIONS — EXEMPTIONS FOR CERTAIN THERAPISTS LICENSED IN OTHER JURISDICTIONS. — 1. A person desiring a license to practice massage therapy shall be at least eighteen years of age, **shall be of good moral character**, shall pay the appropriate required application fee, and shall submit satisfactory evidence to the board of meeting at least one of the following requirements:

(1) Has passed a statistically valid examination on therapeutic massage and body work which is approved by the board, prior to August 28, 1999, and applies for such license by December 31, 2000; or

(2) [Completing] **Has completed a program of** massage therapy studies, **as defined by the board**, consisting of at least five hundred hours of supervised instruction and subsequently passing an examination approved by the board. The examination may consist of school examinations. The **program and** course of instruction shall be approved by the board.

(a) The five hundred hours of **supervised instruction** shall consist of three hundred hours dedicated to massage theory and practice techniques, one hundred hours dedicated to the study of anatomy and physiology, fifty hours dedicated to business practice, professional ethics, hygiene and massage law in the state of Missouri, and fifty hours dedicated to ancillary therapies, including cardiopulmonary resuscitation (CPR) and first aid; or

(3) Has completed five hundred hours in an apprenticeship with a certified mentor and has successfully passed an examination approved by the board; or

(4) Has been licensed or registered as a massage therapist in another state, territory or commonwealth or the District of Columbia, which maintains standards of practice and licensure which substantially conform to the requirements in force in this state;

(5) Has been engaged in the practice of massage therapy for at least ten years prior to August 28, 1999, and applies for such license by December 31, 2000; or

(6) Has been in the practice of massage therapy for at least three years prior to August 28, 1999, has completed at least one hundred hours of formal training in massage approved by the board and applies for such license by December 31, 2000].

(b) **A person completing a massage therapy program comprised of less than five hundred hours of supervised instruction may submit an application for licensure and the board shall establish requirements for the applicant to complete the requirements of paragraph (a) of subdivision (2) of this subsection.**

2. A person who has practiced less than three years or has less than one hundred hours of training may request a waiver of the requirements of subsection 1 of this section and apply for a temporary two-year license which shall not be renewable. By the end of such two-year period, such person shall complete at least one hundred additional hours of formal training, including at least twenty-five hours in anatomy and physiology, in a school approved by the board. Such person shall have until December 31, 2000, to apply for a temporary license pursuant to this subsection.

3. Each license issued pursuant to the provisions of this section shall expire on its renewal date. The board shall renew any license upon:

- (1) Application for renewal;
- (2) Proof, as provided by rule, that the therapist has completed twelve hours of continuing education; and
- (3) Payment of the appropriate renewal fee.

Failure to obtain the required continuing education hours, submit satisfactory evidence, or maintain required documentation is a violation of this subsection. As provided by rule, the board

may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

4. An applicant who possesses the qualifications specified in subsection 2 of this section to take the examination approved by the board may be granted a provisional license to engage in the practice of massage therapy [until the date of the next examination, and thereafter until the results of the examination are known]. **An applicant for a provisional license shall submit proof that the applicant has applied for the examination approved by the board. A provisional license shall be valid for one year from the date of issuance and shall be deemed void upon its expiration date. A provisional licensee is prohibited from practicing massage therapy after expiration of the provisional license.**

5. As determined by the board, students making substantial progress toward completion of their training in an approved curriculum shall be granted a student license for the purpose of practicing massage therapy on the public while under the supervision of a massage therapy instructor.

6. [A provisional license may, at the discretion of the board, be renewed once, and] A student license may be renewed until the student completes such student's training. **Upon request, the board may extend a provisional license for good cause at the discretion of the board. An application for the extension of a provisional license shall be submitted to the board prior to the expiration of the provisional license.**

7. The following practitioners are exempt from the provisions of this section upon filing written proof with the board that they meet one or more of the following:

- (1) Persons who act under a Missouri state license, registration, or certification and perform soft tissue manipulation within their scope of practice;
- (2) Persons who restrict their manipulation of the soft tissues of the human body to the hands, feet or ears;
- (3) Persons who use touch and words to deepen awareness of existing patterns of movement in the human body as well as to suggest new possibilities of movement;
- (4) Persons who manipulate the human body above the neck, below the elbow, and below the knee and do not disrobe the client in performing such manipulation.

8. Any nonresident person licensed, registered, or certified by another state or territory of the United States, the District of Columbia, or foreign territory or recognized certification system determined as acceptable by the board shall be exempt from licensure as defined in this chapter, if such persons are incidentally called into the state to teach a course related to massage or body work therapy or to provide massage therapy services as part of an emergency response team working in conjunction with disaster relief officials.

9. Any nonresident person holding a current license, registration, or certification in massage therapy from another state or recognized national certification system determined as acceptable by the board shall be exempt from licensure as defined in this chapter when temporarily present in this state for the purpose of providing massage therapy services at special events such as conventions, sporting events, educational field trips, conferences, and traveling shows or exhibitions.

Approved June 25, 2008

HB 1422 [SCS HB 1422]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Highways and Transportation Commission to implement and administer a state plan to conform with the federal Unified Carrier Registration Act of 2005

AN ACT to repeal sections 390.071 and 622.095, RSMo, and to enact in lieu thereof one new section relating to implementing the unified carrier registration plan and agreement to conform with the Unified Carrier Registration Act of 2005.

SECTION

- A. Enacting clause.
- 390.021. UCR agreement — definitions — commission authority — precedence of agreement — filing of forms and registration fee-enforcement authority — authorized exemptions.
- 390.071. Motor carriers interstate permits, when issued.
- 622.095. Division authorized to contract with other jurisdictions — uniform administration of certain interstate vehicles — powers — base state registration fund established — properly registered vehicle operation allowed — fees may be staggered and prorated.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 390.071 and 622.095, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 390.021, to read as follows:

390.021. UCR AGREEMENT — DEFINITIONS — COMMISSION AUTHORITY — PRECEDENCE OF AGREEMENT — FILING OF FORMS AND REGISTRATION FEE-ENFORCEMENT AUTHORITY — AUTHORIZED EXEMPTIONS. — 1. The provisions of this section shall be applicable, notwithstanding any provisions of section 390.030 to the contrary.

2. As used in chapter 622, RSMo, and in this section, except when the context clearly requires otherwise, the following terms shall mean:

(1) "UCR implementing regulations", includes the regulations issued by the United States Secretary of Transportation under 49 U.S.C.A. Section 13908, the rules and regulations issued by the board of directors of the Unified Carrier Registration (UCR) plan under 49 U.S.C.A. Section 14504a, and the administrative rules adopted by the state highways and transportation commission under this section;

(2) "Unified Carrier Registration Act", or "UCR Act", Sections 4301 to 4308 of the Unified Carrier Registration Act of 2005, within subtitle C of title IV of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users" or "SAFETEA-LU", Public Law 109-59 (119 Stat. 1761), as those sections have been and periodically may be amended.

3. Except when the context clearly requires otherwise, the definitions of words in 49 U.S.C. Sections 13102, 13908, and 14504a shall apply to and determine the meaning of those words as used in this section.

4. In carrying out and being subject to the provisions of the UCR Act, the Unified Carrier Registration (UCR) agreement, the UCR implementing regulations, and this section, but notwithstanding any other provisions of law to the contrary, the state highways and transportation commission may:

(1) Submit to the proper federal authorities, amend and carry out a state plan to qualify as a base-state and to participate in the UCR plan and administer the UCR agreement, and take other necessary actions as the designated representative of the state of Missouri so that:

(a) Missouri domiciled entities who must register and pay UCR registration fees are not required to register and pay those fees in a base-state other than the state of Missouri;

(b) The state of Missouri does not forfeit UCR registration fee revenues; and

(c) The state of Missouri may maintain its eligibility to receive the maximum allowable allocations of revenues derived under the UCR agreement;

(2) Administer the UCR registration of Missouri domiciled motor carriers, motor private carriers, brokers, freight forwarders and leasing companies, and such persons domiciled in non-participating states who have designated this state as their base-state under the UCR Act;

(3) Receive, collect, process, deposit, transfer, distribute, and refund UCR registration fees relating to any of the persons and activities described in this section. Notwithstanding any provisions of law to the contrary, these UCR registration fees collected by the commission are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and the commission shall transmit these funds to the state department of revenue for deposit to the credit of the state highways and transportation department fund. The commission shall, from time to time, direct the payment of, and the director of revenue shall pay, the fees so deposited, in accordance with the provisions of the UCR Act, the UCR agreement, and the UCR implementing regulations. The director of revenue shall credit all income derived from the investment of these funds to the state highways and transportation department fund;

(4) Exercise all other powers, duties, and functions the UCR Act requires of or allows a participating state or base-state;

(5) Promulgate administrative rules and issue specific orders relating to any of the persons and activities described in this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void;

(6) Enter into agreements with any agencies or officers of the United States, or of any state that participates or intends to enter into the UCR agreement; and

(7) Delegate any or all of the powers, duties, and functions of the commission under this section to any agent or contractor.

5. After the commission has entered into the UCR plan on behalf of this state, the requirements in the UCR agreement shall take precedence over any conflicting requirements under chapter 622, RSMo, or this chapter.

6. Notwithstanding any other provisions of law to the contrary, every motor carrier, motor private carrier, broker, freight forwarder, and leasing company that has its principal place of business within this state, and every such person who has designated this state as the person's base-state under the provisions of the UCR Act, shall timely complete and file with the state highways and transportation commission all the forms required by the UCR agreement and the UCR implementing regulations, and shall pay the required UCR registration fees to the commission.

7. All powers of the commission under section 226.008, RSMo, are hereby made applicable to the enforcement of this section with reference to any person subject to any provision of this section. The chief counsel shall not be required to exhaust any administrative remedies before commencing any enforcement actions under this section. The provisions of chapter 622, RSMo, shall apply to and govern the practice and procedures before the courts in those actions.

8. Except as required by the UCR Act, the UCR agreement, or the UCR implementing regulations, the provisions of this section and the rules adopted by the commission under this section shall not be construed as exempting any motor carrier, or any person controlled by a motor carrier, from any of the requirements of chapter 622, RSMo, or this chapter, relating to the transportation of passengers or property in intrastate commerce.

9. Notwithstanding any other provision of this section to the contrary, Missouri elects to not apply the provisions of the UCR Act, the UCR Agreement, and the UCR implementing regulations to motor carriers and motor private carriers that operate solely in intrastate commerce transporting farm or dairy products, including livestock, from a farm, or property from farm to farm, or stocker and feeder livestock from farm to farm, or from market to farm.

[390.071. MOTOR CARRIERS INTERSTATE PERMITS, WHEN ISSUED. — 1. No person shall engage in the business of a motor carrier in interstate commerce on any public highway in this state unless there is in force with respect to such carrier a permit issued by the division of motor carrier and railroad safety authorizing such operations.

2. Upon application to the division in writing, containing such information as the division may by rule require, accompanied by a copy of applicant's certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission, the filing of such liability insurance policy or bond and other formal documents as the division shall by rule require, the division, if it finds applicant qualified, shall, with or without hearing, issue a permit authorizing the proposed interstate operations.]

[622.095. DIVISION AUTHORIZED TO CONTRACT WITH OTHER JURISDICTIONS — UNIFORM ADMINISTRATION OF CERTAIN INTERSTATE VEHICLES — POWERS — BASE STATE REGISTRATION FUND ESTABLISHED — PROPERLY REGISTERED VEHICLE OPERATION ALLOWED — FEES MAY BE STAGGERED AND PRORATED. — 1. In addition to its other powers, the state highways and transportation commission may negotiate and enter into fair and equitable cooperative agreements or contracts with other states, the District of Columbia, territories and possessions of the United States, foreign countries, and any of their officials, agents or instrumentalities, to promote cooperative action and mutual assistance between the participating jurisdictions with regard to the uniform administration and registration, through a single base jurisdiction for each registrant, of Federal Motor Carrier Safety Administration operating authority and exempt operations by motor vehicles operated in interstate commerce. Notwithstanding any other provision of law to the contrary, and in accordance with the provisions of such agreements or contracts between participating jurisdictions, the commission may:

(1) Delegate to other participating jurisdictions the authority and responsibility to collect and pay over statutory registration, administration or license fees; to receive, approve and maintain the required proof of public liability insurance coverage; to receive, process, maintain and transmit registration information and documentation; to issue evidence of proper registration in lieu of certificates, licenses, or permits which the commission may issue motor vehicle licenses or identifiers in lieu of regulatory licenses under section 390.136, RSMo; and to suspend or revoke any credential, approval, registration, certificate, permit, license, or identifier referred to in this section, as agents on behalf of the commission with regard to motor vehicle operations by persons having a base jurisdiction other than this state;

(2) Assume the authority and responsibility on behalf of other jurisdictions participating in such agreements or contracts to collect and direct the department of revenue to pay over to the appropriate jurisdictions statutory registration, administration or license fees, and to perform all other activities described in subdivision (1) of this subsection, on its own behalf or as an agent

on behalf of other participating jurisdictions, with regard to motor vehicle operations in interstate commerce by persons having this state as their base jurisdiction;

(3) Establish or modify dates for the payment of fees and the issuance of annual motor vehicle licenses or identifiers in conformity with such agreements or contracts, notwithstanding any provisions of section 390.136, RSMo, to the contrary; and

(4) Modify, cancel or terminate any of the agreements or contracts.

2. Notwithstanding the provisions of section 390.136, RSMo, statutory registration, administration or license fees collected by the commission on behalf of other jurisdictions under such agreements or contracts are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and shall be immediately transmitted to the department of revenue of the state for deposit to the credit of a special fund which is hereby created and designated as the "Base State Registration Fund". The commission shall direct the payment of, and the director of revenue shall pay, the fees so collected to the appropriate other jurisdictions. All income derived from the investment of the base state registration fund by the director of revenue shall be credited to the state highways and transportation department fund.

3. "Base jurisdiction", as used in this section, means the jurisdiction participating in such agreements or contracts where the registrant has its principal place of business.

4. Every person who has properly registered his or her interstate operating authority or exempt operations with his or her base jurisdiction and maintains such registration in force in accordance with such agreements or contracts is authorized to operate in interstate commerce within this state any motor vehicle which is accompanied by a valid annual license or identifier issued by his base jurisdiction in accordance with such agreements or contracts, notwithstanding any provision of section 390.071, 390.126 or 390.136, RSMo, or rules of the commission to the contrary.

5. Notwithstanding any provision of law to the contrary, the commission may stagger and prorate the payment and collection of license fees pursuant to this section for the purposes of:

(1) Coordinating the issuance of regulatory licenses under this section with the issuance of other motor carrier credentials; and

(2) Complying with any federal law or regulation.]

Approved June 19, 2008

HB 1426 [HB 1426]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the requirement that the Missouri Public Service Commission prepare an annual economic impact report on certificates of public convenience and necessity for certain telecommunication companies

AN ACT to repeal section 392.410, RSMo, and to enact in lieu thereof one new section relating to the public service commission.

SECTION

A. Enacting clause.

392.410. Certificate of public convenience and necessity required, exception — certificate of interexchange service authority, required when — duration of certificates — temporary certificates, issued when — political subdivisions restricted from providing certain telecommunications services or facilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 392.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.410, to read as follows:

392.410. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, EXCEPTION — CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY, REQUIRED WHEN — DURATION OF CERTIFICATES — TEMPORARY CERTIFICATES, ISSUED WHEN — POLITICAL SUBDIVISIONS RESTRICTED FROM PROVIDING CERTAIN TELECOMMUNICATIONS SERVICES OR FACILITIES. — 1. A telecommunications company not possessing a certificate of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing telecommunications service on September 28, 1987, and which has not been granted or denied a certificate of public convenience and necessity prior to September 28, 1987, may continue to provide that service exempt from all other requirements of this chapter until a certificate of service authority is granted or denied by the commission so long as the telecommunications company applies for a certificate of service authority within ninety days from September 28, 1987.

2. No telecommunications company offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this section. No telecommunications company offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a certificate of local exchange service authority pursuant to the provisions of section 392.420.

3. No certificate of service authority issued by the commission shall be construed as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a certificate of service authority to any telecommunications company shall not preclude the commission from issuing additional certificates of service authority to another telecommunications company providing the same or equivalent service or serving the same geographical area or customers as any previously certified company, except to the extent otherwise provided by section 392.450.

4. Any certificate of public convenience and necessity granted by the commission to a telecommunications company prior to September 28, 1987, shall remain in full force and effect unless modified by the commission, and such companies need not apply for a certificate of service authority in order to continue offering or providing service to the extent authorized in such certificate of public convenience and necessity. Any such carrier, however, prior to substantially altering the nature or scope of services provided under a certificate of public convenience and necessity, or adding or expanding services beyond the authority contained in such certificate, shall apply for a certificate of service authority for such alterations or additions pursuant to the provisions of this section.

5. The commission may review and modify the terms of any certificate of public convenience and necessity issued to a telecommunications company prior to September 28, 1987, in order to ensure its conformity with the requirements and policies of this chapter. Any certificate of service authority may be altered or modified by the commission after notice and hearing, upon its own motion or upon application of the person or company affected. Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

6. The commission may issue a temporary certificate which shall remain in force not to exceed one year to assure maintenance of adequate service or to serve particular customers, without notice and hearing, pending the determination of an application for a certificate.

7. No political subdivision of this state shall provide or offer for sale, either to the public or to a telecommunications provider, a telecommunications service or telecommunications facility used to provide a telecommunications service for which a certificate of service authority is required pursuant to this section. Nothing in this subsection shall be construed to restrict a political subdivision from allowing the nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar support structures by telecommunications providers or from providing to telecommunications providers, within the geographic area in which it lawfully operates as a municipal utility, telecommunications services or telecommunications facilities on a nondiscriminatory, competitively neutral basis, and at a price which covers cost, including imputed costs that the political subdivision would incur if it were a for-profit business. Nothing in this subsection shall restrict a political subdivision from providing telecommunications services or facilities:

- (1) For its own use;
- (2) For 911, E-911 or other emergency services;
- (3) For medical or educational purposes;
- (4) To students by an educational institution; or
- (5) Internet-type services.

[8. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.]

Approved June 19, 2008

HB 1450 [SCS HB 1450]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Extends the expiration date for the Joint Committee on Terrorism, Bioterrorism, and Homeland Security and the provisions regarding the Open Records and Meetings Law

AN ACT to repeal sections 21.800 and 610.021, RSMo, and to enact in lieu thereof two new sections relating to terrorism.

SECTION

A. Enacting clause.

21.800. Joint committee on terrorism, bioterrorism, and homeland security established, members, duties, meetings, expenses, report — expires, when.

610.021. Closed meetings and closed records authorized when, exceptions, sunset dates for certain exceptions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 21.800 and 610.021, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 21.800 and 610.021, to read as follows:

21.800. JOINT COMMITTEE ON TERRORISM, BIOTERRORISM, AND HOMELAND SECURITY ESTABLISHED, MEMBERS, DUTIES, MEETINGS, EXPENSES, REPORT — EXPIRES, WHEN. — 1.

There is established a joint committee of the general assembly to be known as the "Joint Committee on Terrorism, Bioterrorism, and Homeland Security" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a continuing study and analysis of all state government terrorism, bioterrorism, and homeland security efforts;

(2) Devise a standard reporting system to obtain data on each state government agency that will provide information on each agency's terrorism and bioterrorism preparedness, and homeland security status at least biennially;

(3) Determine from its study and analysis the need for changes in statutory law; and

(4) Make any other recommendation to the general assembly necessary to provide adequate terrorism and bioterrorism protections, and homeland security to the citizens of the state of Missouri.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least quarterly. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on December 31, [2007] **2009**.

610.021. CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS, SUNSET DATES FOR CERTAIN EXCEPTIONS. — Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any

insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

(18) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, [2008] **2012**;

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(d) This exception shall sunset on December 31, [2008] **2012**;

(20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open; and

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

Approved June 10, 2008

HB 1469 [HB 1469]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding certain appeals to the Administrative Hearing Commission

AN ACT to repeal sections 621.250 and 640.013, RSMo, and to enact in lieu thereof two new sections relating to the administrative hearing commission.

SECTION

A. Enacting clause.

621.250. Appeals from decisions of certain environmental commissions to be heard by administrative hearing commission — procedure.

640.013. Appeals from certain environmental decisions to be heard by administrative hearing commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 621.250 and 640.013, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 621.250 and 640.013, to read as follows:

621.250. APPEALS FROM DECISIONS OF CERTAIN ENVIRONMENTAL COMMISSIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION — PROCEDURE. — 1. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, RSMo, and to the hazardous waste management commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in chapter 640, RSMo, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection. **The commissions listed in this subsection may render final decisions after hearing or through stipulation, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, consistent with the rules and procedures of the administrative hearing commission.**

2. Except as otherwise provided by law, any person or entity who is a party to, or who is affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section [shall be entitled to a hearing before the administrative hearing commission by the filing of a petition] **may file a notice of appeal** with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days of any such finding, order, decision, or assessment being delivered, whichever is earlier. **The administrative hearing commission may hold hearings or may make recommended decisions based on stipulation of the parties, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with the rules and procedures of the administrative hearing commission.**

3. Any decision by the director of the department of natural resources that may be appealed to the commissions listed in subsection 1 of **this** section [621.052] and shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier."

If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission." Within fifteen days after the administrative hearing commission renders its recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue a final decision. The decision of the commission shall be based only on the facts and evidence in the hearing record. The commission may adopt the recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute under this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue under section 32.065, RSMo.

5. Appropriations shall be made from the respective funds of the various commissions to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission under this section, the burden of proof shall comply with section 640.012, RSMo. The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536, RSMo, and its regulations promulgated thereunder.

640.013. APPEALS FROM CERTAIN ENVIRONMENTAL DECISIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION. — [All authority to hear appeals granted in this chapter and chapters 260, 444, 643, and 644, RSMo, and to the hazardous waste management commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission under chapter 621, RSMo. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection.] **The administrative hearing commission shall have the authority to hear certain environmental appeals in accordance with section 621.250, RSMo.**

Approved June 19, 2008

HB 1549 [CCS SS HCS HBs 1549, 1771, 1395 & 2366]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding illegal aliens and immigration status verification

AN ACT to repeal sections 8.283, 302.720, and 544.470, RSMo, and to enact in lieu thereof twenty-four new sections relating to illegal aliens, with penalty provisions, and an effective date for certain sections.

SECTION

- A. Enacting clause.
 - 43.032. Federal immigration law enforcement, patrol members to be designated for training.
 - 67.307. Sanctuary policies for municipalities prohibited — definitions — duty of law enforcement to cooperate in immigration enforcement.
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- 208.009. Illegal aliens prohibited from receiving any state or local public benefit — proof of lawful residence required — temporary benefits permitted, when — exceptions for nonprofit organizations.
- 285.309. Federal 1099 forms, certain employers required to submit to department — fine for failure to report.
- 285.500. Definitions.
- 285.503. Misclassification of workers by employers, failure to claim worker as employee — attorney general may investigate, powers.
- 285.506. State to have burden of proof.
- 285.512. Attorney general may seek injunction, when.
- 285.515. Penalties for violations.
- 285.525. Definitions.
- 285.530. Employment of unauthorized aliens prohibited — federal work authorization program, requirements for participation in — liability of contractors and subcontractors.
- 285.535. Attorney general to enforce — action to be initiated, when — complaint procedures — verification of status required — violations, corrective actions, penalties.
- 285.540. Rulemaking authority.
- 285.543. Database to be maintained.
- 285.550. Failure to suspend a business permit, city or county deemed to have adopted a sanctuary policy.
- 285.555. Discontinuance of federal work authorization program, effect of.
- 292.675. Definitions — on-site training required — workers to maintain documentation of completion of training — resolution or ordinance required — violations, penalty — rulemaking authority.
- 302.063. No issuance of a drivers license to illegal aliens or persons who can not prove lawful presence.
- 302.720. Operation without license prohibited, exceptions — instruction permit, use, duration, fee — license, test required, contents, fee — director to promulgate rules and regulations for certification of third-party testers — certain persons prohibited from obtaining license, exceptions — third-party testers, when.
- 544.470. Commitment of prisoner, when — presumption for aliens unlawfully present.
- 577.722. Transport of illegal aliens unlawful — violations, penalty.
- 577.900. Persons confined to jail, verification of lawful immigration status required.
- 578.570. Fraud or deception in obtaining an instruction permit, driver's license or nondriver's license — penalty.
- 650.681. Prohibiting or restricting communication with federal authorities regarding citizenship or immigration, unlawful when — attorney general to issue opinion, when — rights of public employees.
- 8.283. State contracts, employment of illegal aliens by contractors or subcontractors, penalties — immunity for actions under statute — provisions not effective if prohibited by federal law.
 - B. Effective date.
 - C. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 8.283, 302.720, and 544.470, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, to be known as sections 43.032, 67.307, 208.009, 285.309, 285.500, 285.503, 285.506, 285.512, 285.515, 285.525, 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, 292.675, 302.063, 302.720, 544.470, 577.722, 577.900, 578.570, and 650.681, to read as follows:

43.032. FEDERAL IMMIGRATION LAW ENFORCEMENT, PATROL MEMBERS TO BE DESIGNATED FOR TRAINING. — **Subject to appropriation, the superintendent of the Missouri state highway patrol shall designate that some or all members of the highway patrol be trained in accordance with a memorandum of understanding between the state of Missouri and the United States Department of Homeland Security concerning the enforcement of federal immigration laws during the course of their normal duties in the state of Missouri, in accordance with 8 U.S.C. Section 1357(g). The superintendent shall have the authority to negotiate the terms of such memorandum. The memorandum shall be signed by the superintendent of the highway patrol, the governor, and the director of the department of public safety.**

67.307. SANCTUARY POLICIES FOR MUNICIPALITIES PROHIBITED — DEFINITIONS — DUTY OF LAW ENFORCEMENT TO COOPERATE IN IMMIGRATION ENFORCEMENT. — **1. As used in this section, the following terms mean:**

(1) "Law enforcement officer", a sheriff or peace officer of a municipality with the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of municipalities;

- (2) "Municipality", any county, city, town, or village;
- (3) "Municipality official", any elected or appointed official or any law enforcement officer serving the municipality;
- (4) "Sanctuary policy", any municipality's order or ordinance, enacted or followed that:

- (a) Limits or prohibits any municipality official or person employed by the municipality from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien within such municipality; or

- (b) Grants to illegal aliens the right to lawful presence or status within the municipality in violation of federal law.

2. No municipality shall enact or adopt any sanctuary policy. Any municipality that enacts or adopts a sanctuary policy shall be ineligible for any moneys provided through grants administered by any state agency or department until the sanctuary policy is repealed or is no longer in effect. Upon the complaint of any state resident regarding a specific government entity, agency, or political subdivision of this state or prior to the provision of funds or awarding of any grants to a government entity, agency, or political subdivision of this state, any member of the general assembly may request that the attorney general of the state of Missouri issue an opinion stating whether the government entity, agency, or political subdivision has current policies in contravention of this section.

3. The governing body, sheriff, or chief of police of each municipality shall provide each law enforcement officer with written notice of their duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration.

4. This section shall become effective on January 1, 2009.

208.009. ILLEGAL ALIENS PROHIBITED FROM RECEIVING ANY STATE OR LOCAL PUBLIC BENEFIT — PROOF OF LAWFUL RESIDENCE REQUIRED — TEMPORARY BENEFITS PERMITTED, WHEN — EXCEPTIONS FOR NONPROFIT ORGANIZATIONS. — 1. No alien unlawfully present in the United States shall receive any state or local public benefit, except for state or local public benefits that may be offered under 8 U.S.C. 1621(b). Nothing in this section shall be construed to prohibit the rendering of emergency medical care, prenatal care, services offering alternatives to abortion, emergency assistance, or legal assistance to any person.

2. As used in this section, "public benefit" means any grant, contract, or loan provided by an agency of state or local government; or any retirement, welfare, health, postsecondary education, state grants and scholarships, disability, housing, or food assistance benefit under which payments, assistance, credits, or reduced rates or fees are provided. The term "public benefit" shall not include unemployment benefits payable under chapter 288, RSMo. The unemployment compensation program shall verify the lawful presence of an alien for the purpose of determining eligibility for benefits in accordance with its own procedures.

3. In addition to providing proof of other eligibility requirements, at the time of application for any state or local public benefit, an applicant who is eighteen years of age or older shall provide affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States, provided, however, that in the case of state grants and scholarships, such proof shall be provided before the applicant receives any state grant or scholarship. Such affirmative proof shall include documentary evidence recognized by the department of revenue when processing an application for a driver's license, a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States. In processing applications for public benefits, an employee of an agency of state or local government shall not inquire about the legal status of a custodial parent or

guardian applying for a public benefit on behalf of his or her dependent child who is a citizen or permanent resident of the United States.

4. An applicant who cannot provide the proof required under this section at the time of application may alternatively sign an affidavit under oath, attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence, in order to receive temporary benefits or a temporary identification document as provided in this section. The affidavit shall be on or consistent with forms prepared by the state or local government agency administering the state or local public benefits and shall include the applicant's Social Security number or any applicable federal identification number and an explanation of the penalties under state law for obtaining public assistance benefits fraudulently.

5. An applicant who has provided the sworn affidavit required under subsection 4 of this section is eligible to receive temporary public benefits as follows:

(1) For ninety days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier; or

(2) Indefinitely if the applicant provides a copy of a completed application for a birth certificate that is pending in Missouri or some other state. An extension granted under this subsection shall terminate upon the applicant's receipt of a birth certificate or a determination that a birth certificate does not exist because the applicant is not a United States citizen.

6. An applicant who is an alien shall not receive any state or local public benefit unless the alien's lawful presence in the United States is first verified by the federal government. State and local agencies administering public benefits in this state shall cooperate with the United States Department of Homeland Security in achieving verification of an alien's lawful presence in the United States in furtherance of this section. The system utilized may include the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security.

7. The provisions of this section shall not be construed to require any nonprofit organization organized under the Internal Revenue Code to enforce the provisions of this section, nor does it prohibit such an organization from providing aid.

8. Any agency that administers public benefits shall provide assistance in obtaining appropriate documentation to persons applying for public benefits who sign the affidavit required by subsection 4 of this section stating they are eligible for such benefits but lack the documents required under subsection 3 of this section.

285.309. FEDERAL 1099 FORMS, CERTAIN EMPLOYERS REQUIRED TO SUBMIT TO DEPARTMENT — FINE FOR FAILURE TO REPORT. — 1. Every employer doing business in this state who employs five or more employees shall, if applicable, submit federal 1099 miscellaneous forms to the department of revenue. Such forms shall be submitted to the department of revenue within the time lines established for the filing of Missouri form 99 forms.

2. Any employer who intentionally, on five or more occasions, fails to submit information required under subsection 1 of this section shall be fined not more than two hundred dollars for each time the employer fails to submit the information on or after the fifth occurrence.

285.500. DEFINITIONS. — For the purposes of sections 285.500 to 285.515 the following terms mean:

(1) "Employee", any individual who performs services for an employer that would indicate an employer-employee relationship in satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1 C.B.296.;

(2) "Employer", any individual, organization, partnership, political subdivision, corporation, or other legal entity which has or had in the entity's employ five or more individuals performing public works as defined in section 290.210, RSMo;

(3) "Knowingly", a person acts knowingly or with knowledge,

(a) With respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or

(b) With respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

285.503. MISCLASSIFICATION OF WORKERS BY EMPLOYERS, FAILURE TO CLAIM WORKER AS EMPLOYEE — ATTORNEY GENERAL MAY INVESTIGATE, POWERS. — 1. An employer knowingly misclassifies a worker if that employer fails to claim the worker as an employee but knows that the worker is an employee.

2. The attorney general may investigate alleged or suspected violations of sections 285.500 to 285.515 and shall have all powers provided by sections 407.040 to 407.090, RSMo, in connection with any investigation of an alleged or suspected violation of sections 285.500 to 285.515 as if the acts enumerated in sections 285.500 to 285.515 are unlawful acts proscribed by chapter 407, RSMo. The attorney general may serve and enforce subpoenas related to the enforcement of sections 285.500 to 285.515.

285.506. STATE TO HAVE BURDEN OF PROOF. — In any action brought under sections 285.500 to 285.515, the state shall have the burden of proving that the employer misclassified the worker.

285.512. ATTORNEY GENERAL MAY SEEK INJUNCTION, WHEN. — Whenever the attorney general has reason to believe that an employer is engaging in any conduct that would be a violation of sections 285.500 to 285.515, the attorney general may seek an injunction prohibiting the employer from engaging in such conduct. The attorney general may bring an action for injunctive relief in the circuit court of any county where the alleged violation is occurring or about to occur.

285.515. PENALTIES FOR VIOLATIONS. — If a court determines that an employer has knowingly misclassified a worker, the court shall enter a judgment in favor of the state and award penalties in the amount of fifty dollars per day per misclassified worker up to a maximum of fifty thousand dollars. The attorney general may enter into a consent judgment with any person alleged to have violated sections 285.500 to 285.515.

285.525. DEFINITIONS. — As used in sections 285.525 to 285.550, the following terms shall have the following meanings:

(1) "Business entity", any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term "business entity" shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term "business entity" shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term "business entity" shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo;

(2) "Contractor", a person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for

valuable consideration. This definition shall include but not be limited to a general contractor, subcontractor, independent contractor, contract employee, project manager, or a recruiting or staffing entity;

(3) "Employee", any person performing work or service of any kind or character for hire within the state of Missouri;

(4) "Employer", any person or entity employing any person for hire within the state of Missouri, including a public employer. Where there are two or more putative employers, any person or entity taking a business tax deduction for the employee in question shall be considered an employer of that person for purposes of sections 285.525 to 285.550;

(5) "Employment", the act of employing or state of being employed, engaged, or hired to perform work or service of any kind or character within the state of Missouri;

(6) "Federal work authorization program", any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L.99-603;

(7) "Knowingly", a person acts knowingly or with knowledge,

(a) With respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or

(b) With respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result;

(8) "Political subdivision", any agency or unit of this state which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied;

(9) "Public employer", every department, agency, or instrumentality of the state or political subdivision of the state;

(10) "Unauthorized alien", an alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3);

(11) "Work", any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities.

285.530. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED — FEDERAL WORK AUTHORIZATION PROGRAM, REQUIREMENTS FOR PARTICIPATION IN — LIABILITY OF CONTRACTORS AND SUBCONTRACTORS. — 1. No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

2. As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

3. All public employers shall enroll and actively participate in a federal work authorization program.

4. An employer may enroll and participate in a federal work authorization program and shall verify the employment eligibility of every employee in the employer's hire whose

employment commences after the employer enrolls in a federal work authorization program. The employer shall retain a copy of the dated verification report received from the federal government. Any business entity that participates in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section.

5. A general contractor or subcontractor of any tier shall not be liable under sections 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of this section, if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of this section and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

285.535. ATTORNEY GENERAL TO ENFORCE — ACTION TO BE INITIATED, WHEN — COMPLAINT PROCEDURES — VERIFICATION OF STATUS REQUIRED — VIOLATIONS, CORRECTIVE ACTIONS, PENALTIES. — 1. The attorney general shall enforce the requirements of sections 285.525 to 285.550.

2. An enforcement action shall be initiated by means of a written, signed complaint under penalty of perjury as defined in section 575.040, RSMo, to the attorney general submitted by any state official, business entity, or state resident. A valid complaint shall include an allegation which describes the alleged violator as well as the actions constituting the violation, and the date and location where such actions occurred. A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.

3. Upon receipt of a valid complaint, the attorney general shall, within fifteen business days, request identity information from the business entity regarding any persons alleged to be unauthorized aliens. Such request shall be made by certified mail. The attorney general shall direct the applicable municipal or county governing body to suspend any applicable license, permit, or exemptions of any business entity which fails, within fifteen business days after receipt of the request, to provide such information.

4. The attorney general, after receiving the requested identity information from the business entity, shall submit identity data required by the federal government to verify, under 8 U.S.C. 1373, the immigration status of such persons, and shall provide the business entity with written notice of the results of the verification request:

(1) If the federal government notifies the attorney general that an employee is authorized to work in the United States, the attorney general shall take no further action on the complaint;

(2) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, the attorney general shall proceed on the complaint as provided in subsection 5 of this section;

(3) If the federal government notifies the attorney general that it is unable to verify whether an employee is authorized to work in the United States, the attorney general shall take no further action on the complaint until a verification from the federal government concerning the status of the individual is received. At no point shall any state official attempt to make an independent determination of any alien's legal status without verification from the federal government.

5. (1) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, and the employer of the unauthorized alien participates in a federal work authorization program, there shall be a rebuttable presumption that the employer has met the requirements for an affirmative defense under

subsection 4 of section 285.530, and the employer shall comply with subsection 6 of this section.

(2) If the federal government notifies the attorney general that an employee is not authorized to work in the United States, the attorney general shall bring a civil action in Cole County if the attorney general reasonably believes the business entity knowingly violated subsection 1 of section 285.530.

(a) If the court finds that a business entity did not knowingly violate subsection 1 of section 285.530, the employer shall have fifteen business days to comply with subdivision (1) and paragraph (a) of subdivision (2) of subsection 6 of this section. If the entity fails to do so, the court shall direct the applicable municipal or county governing body to suspend the business permit, if such exists, and any applicable licenses or exemptions of the entity until the entity complies with subsection 6 of this section;

(b) If the court finds that a business entity knowingly violated subsection 1 of section 285.530, the court shall direct the applicable municipal or county governing body to suspend the business permit, if such exists, and any applicable licenses or exemptions of such business entity for fourteen days. Permits, licenses, and exemptions shall be reinstated for entities who comply with subsection 6 of this section at the end of the fourteen day period.

6. The correction of a violation with respect to the employment of an unauthorized alien shall include the following actions:

(1) (a) The business entity terminates the unauthorized alien's employment. If the business entity attempts to terminate the unauthorized alien's employment and such termination is challenged in a court of the state of Missouri, the fifteen-business-day period for providing information to the attorney general referenced in subsection 3 of this section shall be tolled while the business entity pursues the termination of the unauthorized alien's employment in such forum; or

(b) The business entity, after acquiring additional information from the employee, requests a secondary or additional verification by the federal government of the employee's authorization, under the procedures of a federal work authorization program. While this verification is pending, the fifteen-business-day period for providing information to the attorney general referenced in subsection 3 of this section shall be tolled; and

(2) A legal representative of the business entity submits, at an office designated by the attorney general, the following:

(a) A sworn affidavit stating that the violation has ended that shall include a description of the specific measures and actions taken by the business entity to end the violation, and the name, address, and other adequate identifying information for any unauthorized aliens related to the complaint; and

(b) Documentation acceptable to the attorney general which confirms that the business entity has enrolled in and is participating in a federal work authorization program.

7. The suspension of a business license or licenses under subsection 5 of this section shall terminate one business day after a legal representative of the business entity submits the affidavit and other documentation required under subsection 6 of this section following any period of restriction required under subsection 5 of this section.

8. For an entity that violates subsection 1 of section 285.530 for a second time, the court shall direct the applicable municipal or county governing body to suspend, for one year, the business permit, if such exists, and any applicable license or exemptions of the business entity. For a subsequent violation, the court shall direct the applicable municipal or county governing body to forever suspend the business permit, if such exists, and any applicable license or exemptions of the business entity.

9. In addition to the penalties in subsections 5 and 8 of this section:

(1) Upon the first violation of subsection 1 of section 285.530 by any business entity awarded a state contract or grant or receiving a state-administered tax credit, tax abatement, or loan from the state, the business entity shall be deemed in breach of contract and the state may terminate the contract and suspend or debar the business entity from doing business with the state for a period of three years. Upon such termination, the state may withhold up to twenty-five percent of the total amount due to the business entity;

(2) Upon a second or subsequent violation of subsection 1 of section 285.530 by any business entity awarded a state contract or grant or receiving a state-administered tax credit, tax abatement, or loan from the state, the business entity shall be deemed in breach of contract and the state may terminate the contract and permanently suspend or debar the business entity from doing business with the state. Upon such termination, the state may withhold up to twenty-five percent of the total amount due to the business entity.

10. Sections 285.525 to 285.550 shall not be construed to deny any procedural mechanisms or legal defenses included in a federal work authorization program.

11. Any business entity subject to a complaint and subsequent enforcement under sections 285.525 to 285.540, or any employee of such a business entity, may challenge the enforcement of this section with respect to such entity or employee in the courts of the state of Missouri.

12. If the court finds that any complaint is frivolous in nature or finds no probable cause to believe that there has been a violation, the court shall dismiss the case. For purposes of this subsection, "frivolous" shall mean a complaint not shown by clear and convincing evidence to be valid. Any person who submits a frivolous complaint shall be liable for actual, compensatory, and punitive damages to the alleged violator for holding the alleged violator before the public in a false light. If the court finds that a complaint is frivolous or that there is not probable cause to believe there has been a violation, the attorney general shall issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record as defined in chapter 610, RSMo.

13. The determination of whether a worker is an unauthorized alien shall be made by the federal government. A determination of such status of an individual by the federal government shall create a rebuttable presumption as to that individual's status in any judicial proceedings brought under this section or section 285.530. The court may take judicial notice of any verification of an individual's status previously provided by the federal government and may request the federal government to provide automated or testimonial verification.

14. Compensation, whether in money or in kind or in services, knowingly provided to any unauthorized alien shall not be allowed as a business expense deduction from any income or business taxes of this state.

15. Any business entity which terminates an employee in accordance with this section shall not be liable for any claims made against the business entity under chapter 213, RSMo, for the termination.

285.540. RULEMAKING AUTHORITY. — The attorney general shall promulgate rules to implement the provisions of sections 285.525 to 285.550. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of

rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

285.543. DATABASE TO BE MAINTAINED. — The attorney general shall maintain a database that documents any business entity whose permit, license, or exemption has been suspended or state contract has been terminated.

285.550. FAILURE TO SUSPEND A BUSINESS PERMIT, CITY OR COUNTY DEEMED TO HAVE ADOPTED A SANCTUARY POLICY. — If any municipal or county governing body fails to suspend the business permit, if such exists, and applicable licenses or exemptions as directed by the attorney general as a result of a violation of section 285.530 or 285.535 within fifteen days after notification by the attorney general, the municipality shall be deemed to have adopted a sanctuary policy as defined in section 67.307, RSMo, and shall be subject to the penalties thereunder.

285.555. DISCONTINUANCE OF FEDERAL WORK AUTHORIZATION PROGRAM, EFFECT OF. — Should the federal government discontinue or fail to authorize or implement any federal work authorization program, the general assembly shall review sections 285.525 to 285.555 for the purpose of determining whether the sections are no longer applicable and should be repealed.

292.675. DEFINITIONS — ON-SITE TRAINING REQUIRED — WORKERS TO MAINTAIN DOCUMENTATION OF COMPLETION OF TRAINING — RESOLUTION OR ORDINANCE REQUIRED — VIOLATIONS, PENALTY — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

- (1) "Construction", construction, reconstruction, demolition, painting and decorating, or major repair;
- (2) "Department", the department of labor and industrial relations;
- (3) "Person", any natural person, joint venture, partnership, corporation, or other business or legal entity;
- (4) "Public body", the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds;
- (5) "Public works", all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. "Public works" includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility.

2. Any person signing a contract to work on the construction of public works for any public body shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the department which is at least as stringent as an approved OSHA program. All employees are required to complete the program within sixty days of beginning work on such construction project.

3. Any employee found on a worksite subject to this section without documentation of the successful completion of the course required under subsection 2 of this section shall be afforded twenty days to produce such documentation before being subject to removal from the project.

4. The public body shall specify the requirements of this section in the resolution or ordinance and in the call for bids for the contract. The contractor to whom the contract

is awarded and any subcontractor under such contractor shall require all on-site employees to complete the ten-hour training program required under subsection 2 of this section. The public body awarding the contract shall include this requirement in the contract. The contractor shall forfeit as a penalty to the public body on whose behalf the contract is made or awarded, two thousand five hundred dollars plus one hundred dollars for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time period in subsections 2 and 3 of this section have elapsed. The public body awarding the contract shall include notice of these penalties in the contract. The public body awarding the contract shall withhold and retain therefrom, all sums and amounts due and owing as a result of any violation of this section when making payments to the contractor under the contract. The contractor may withhold from any subcontractor, sufficient sums to cover any penalties the public body has withheld from the contractor resulting from the subcontractor's failure to comply with the terms of this section. If the payment has been made to the subcontractor without withholding, the contractor may recover the amount of the penalty resulting from the fault of the subcontractor in an action maintained in the circuit court in the county in which the public works project is located from the subcontractor.

5. In determining whether a violation of this section has occurred, and whether the penalty under subsection 4 of this section shall be imposed, the department shall investigate any claim of violation. Upon completing such investigation, the department shall notify the public body and any party found to be in violation of this section of its findings and whether a penalty shall be assessed. Determinations under this section may be appealed in the circuit court in the county in which the public works project is located.

6. If the contractor or subcontractor fails to pay the penalty within forty-five days following notification by the department, the department shall pursue an enforcement action to enforce the monetary penalty provisions of subsection 4 of this section against the contractor or subcontractor found to be in violation of this section. If the court orders payment of the penalties as prescribed under subsection 4 of this section, the department shall be entitled to recover its actual cost of enforcement in addition to such penalty amount.

7. The department may establish rules and regulations for the purpose of implementing the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

8. This section shall not apply to work performed by public utilities which are under the jurisdiction of the public service commission, or their contractors, or work performed at or on facilities owned or operated by said public utilities.

9. The provisions of this section shall not apply to rail grade crossing improvement projects where there exists a signed agreement between the railroad and the Missouri department of transportation or an order issued by the department of transportation ordering such construction.

10. This section shall take effect on August 28, 2009.

302.063. NO ISSUANCE OF A DRIVERS LICENSE TO ILLEGAL ALIENS OR PERSONS WHO CAN NOT PROVE LAWFUL PRESENCE. — The department of revenue shall not issue any

driver's license to an illegal alien nor to any person who cannot prove his or her lawful presence pursuant to the provisions of this chapter and the regulations promulgated thereunder. A driver's license issued to an illegal alien in another state shall not be honored by the state of Missouri and the department of revenue for any purpose. The state of Missouri hereby declares that granting driver's licenses to illegal aliens is repugnant to the public policy of Missouri and therefore Missouri shall not extend full faith and credit to out-of-state driver's licenses issued to illegal aliens. As used in this section, the term "illegal alien" shall mean an alien who is not lawfully present in the United States, according to the terms of 8 U.S.C. Section 1101, et seq.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS — THIRD-PARTY TESTERS, WHEN. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the Secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

(1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations. **The written test shall only be administered in the English language. No translators shall be allowed for applicants taking the test.**

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct

third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester.

(3) Beginning August 28, 2006, the director shall only issue or renew third-party tester certification to junior colleges or community colleges established under chapter 178, RSMo, or to private companies who own, lease, or maintain their own fleet and administer in-house testing to their employees, or to school districts and their agents that administer in-house testing to the school district's or agent's employees. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(4) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid upon completion of such tests.

(5) The director shall have the authority to waive the driving skills test for any qualified military applicant for a commercial driver's license who is currently licensed at the time of application for a commercial driver's license. The director shall impose conditions and limitations to restrict the applicants from whom the department may accept alternative requirements for the skills test described in federal regulation 49 C.F.R. 383.77. An applicant must certify that, during the two-year period immediately preceding application for a commercial driver's license, all of the following apply:

- (a) The applicant has not had more than one license;
- (b) The applicant has not had any license suspended, revoked, or cancelled;
- (c) The applicant has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this chapter or federal rule 49 C.F.R. 383.51(b);
- (d) The applicant has not had more than one conviction for any type of motor vehicle for serious traffic violations;
- (e) The applicant has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, but not including any parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault;
- (f) The applicant is regularly employed in a job requiring operation of a commercial motor vehicle and has operated the vehicle for at least sixty days during the two years immediately preceding application for a commercial driver's license. The vehicle must be representative of the commercial motor vehicle the driver applicant operates or expects to operate;
- (g) The applicant, if on active duty, must provide a notarized affidavit signed by a commanding officer as proof of driving experience as indicated in paragraph (f) of this subdivision;
- (h) The applicant, if honorably discharged from military service, must provide a form-DD214 or other proof of military occupational specialty;
- (i) The applicant must meet all federal and state qualifications to operate a commercial vehicle; and
- (j) The applicant will be required to complete all applicable knowledge tests.

3. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner

prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

544.470. COMMITMENT OF PRISONER, WHEN — PRESUMPTION FOR ALIENS UNLAWFULLY PRESENT. — 1. If the offense is not bailable, or if the person does not meet the conditions for release, as provided in section 544.455, the prisoner shall be committed to the jail of the county in which the same is to be tried, there to remain until he be discharged by due course of law.

2. There shall be a presumption that releasing the person under any conditions as provided by section 544.455 shall not reasonably assure the appearance of the person as required if the circuit judge or associate circuit judge reasonably believes that the person is an alien unlawfully present in the United States. If such presumption exists, the person shall be committed to the jail, as provided in subsection 1 of this section, until such person provides verification of his or her lawful presence in the United States to rebut such presumption. If the person adequately proves his or her lawful presence, the circuit judge or associate circuit judge shall review the issue of release, as provided under section 544.455, without regard to previous issues concerning whether the person is lawfully present in the United States. If the person cannot prove his or her lawful presence, the person shall continue to be committed to the jail and remain until discharged by due course of law.

577.722. TRANSPORT OF ILLEGAL ALIENS UNLAWFUL — VIOLATIONS, PENALTY. — 1. It shall be unlawful for any person to knowingly transport, move, or attempt to transport in the state of Missouri any illegal alien who is not lawfully present in the United States, according to the terms of 8 U.S.C. Section 1101, et seq., for the purposes of trafficking in violation of sections 566.200 to 566.215, RSMo, drug trafficking in violation of sections 195.222 to 195.223, RSMo, prostitution in violation of chapter 567, RSMo, or employment.

2. Any person violating the provisions of subsection 1 of this section shall be guilty of a felony for which the authorized term of imprisonment is a term of years not less than one year, or by a fine in an amount not less than one thousand dollars, or by both such fine and imprisonment.

3. Nothing in this section shall be construed to deny any victim of an offense under sections 566.200 to 566.215, RSMo, of rights afforded by the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

577.900. PERSONS CONFINED TO JAIL, VERIFICATION OF LAWFUL IMMIGRATION STATUS REQUIRED. — 1. If verification of the nationality or lawful immigration status of any person who is charged and confined to jail for any period of time cannot be made from documents in the possession of the prisoner or after a reasonable effort on the part of the arresting agency to determine the nationality or immigration status of the person so confined, verification shall be made by the arresting agency within forty-eight hours through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security. If it is determined that the prisoner is in the United States unlawfully, the arresting agency shall notify the United States Department of Homeland Security. Until August 28, 2009, this section shall only

apply to officers employed by the department of public safety to include: the highway patrol, water patrol, capitol police, fire marshal's office, and division of alcohol and tobacco control.

2. Nothing in this section shall be construed to deny any person bond or prevent a person from being released from confinement if such person is otherwise eligible for release.

578.570. FRAUD OR DECEPTION IN OBTAINING AN INSTRUCTION PERMIT, DRIVER'S LICENSE OR NONDRIVER'S LICENSE — PENALTY. — Any person who:

(1) Knowing or in reckless disregard of the truth, assists any person in committing fraud or deception during the examination process for an instruction permit, driver's license, or nondriver's license;

(2) Knowing or in reckless disregard of the truth, assists any person in making application for an instruction permit, driver's license, or nondriver's license that contains or is substantiated with false or fraudulent information or documentation;

(3) Knowing or in reckless disregard of the truth, assists any person in concealing a material fact or otherwise committing a fraud in an application for an instruction permit, driver's license, or nondriver's license; or

(4) Engages in any conspiracy to commit any of the preceding acts or aids or abets the commission of any of the preceding acts;

is guilty of a class A misdemeanor.

650.681. PROHIBITING OR RESTRICTING COMMUNICATION WITH FEDERAL AUTHORITIES REGARDING CITIZENSHIP OR IMMIGRATION, UNLAWFUL WHEN — ATTORNEY GENERAL TO ISSUE OPINION, WHEN — RIGHTS OF PUBLIC EMPLOYEES. — 1. Notwithstanding any other provision of law, no government entity, political subdivision, or government official within the state of Missouri shall prohibit, or in any way restrict, any government entity or official from communicating or cooperating with the United States Bureau of Immigration and Customs Enforcement regarding the citizenship or immigration status, lawful or unlawful, of any individual.

2. Municipalities and political subdivisions may collect and share the identity of persons by the same means the Federal Bureau of Investigation or its successor agency uses in its Integrated Automated Fingerprint Identification System or its successor program.

3. Notwithstanding any other provision of law, no person or agency within the state of Missouri shall prohibit, or in any way restrict, a public employee from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the United States Bureau of Immigration and Customs Enforcement;

(2) Maintaining such information; or

(3) Exchanging such information with any other federal, state, or local government entity.

4. Upon the complaint of any state resident regarding a specific government entity, agency, or political subdivision of this state or prior to the provision of funds or awarding of any grants to a government entity, agency, or political subdivision of this state, any member of the general assembly may request that the attorney general of the state of Missouri issue an opinion stating whether the government entity, agency, or political subdivision has current policies in contravention of subsections 1 and 3 of this section.

5. No state agency or department shall provide any funding or award any monetary grants to any government entity, agency, or political subdivision determined under

subsection 4 of this section to have a policy in contravention of subsections 1 and 3 of this section until the policy is repealed or no longer in effect.

6. The provisions of subsections 1 and 3 of this section shall not apply to any state or local agency administering one or more federal public benefit programs as such term is defined in 8 U.S.C. Section 1612.

[8.283. STATE CONTRACTS, EMPLOYMENT OF ILLEGAL ALIENS BY CONTRACTORS OR SUBCONTRACTORS, PENALTIES — IMMUNITY FOR ACTIONS UNDER STATUTE — PROVISIONS NOT EFFECTIVE IF PROHIBITED BY FEDERAL LAW. — 1. If a state agency for whom work is being performed by a contractor determines upon reasonable evidence that the contractor or a subcontractor engaged to complete work required by the contract hired one or more aliens who are unauthorized to work in the United States, the state agency shall order the contractor to cause the discharge of such unauthorized workers.

2. If upon reasonable evidence the state agency determines that a contractor or subcontractor has knowingly violated the Immigration Reform and Control Act of 1986, or its successor statute, in employing aliens unauthorized to work in the United States, the agency may cause up to twenty percent of the total amount of the contract or subcontract performed by the employer of such unauthorized workers to be withheld from payment to the employer in violation of such statute.

3. If a contractor is determined by a state agency upon reasonable evidence to have engaged a subcontractor to complete work required by the contract with knowledge that the subcontractor violated or intended to violate the Immigration Reform and Control Act of 1986, or its successor statute, in hiring or continuing to employ aliens unauthorized to work in the United States, the state agency may withhold from the contractor up to double the amount caused to be withheld from payments to the subcontractor.

4. Any contractor or subcontractor from whom payment is withheld under subsection 2 or 3 of this section shall be ineligible to perform other contracts or subcontracts for the state of Missouri for a period of two years from the date of such action.

5. No state agency or contractor taking any action authorized by this section shall be subject to any claim arising from such action and shall be deemed in compliance with the laws of this state regarding timely payment.

6. The provisions of this section shall only be effective to the extent that such provisions are not preempted or prohibited by Section 1324(a) of Title 8 of the United States Code, as now or hereafter amended, and any regulations promulgated thereunder, relating to the employment of unauthorized aliens.]

SECTION B. EFFECTIVE DATE. — The provisions of sections 67.307, 285.525, 285.530, 285.535, 285.540, 285.543, 285.550, 285.555, and 650.681 of section A of this act shall become effective on January 1, 2009.

SECTION C. EFFECTIVE DATE. — The enactment of section 292.675 of section A of this act shall become effective on August 28, 2009.

Approved July 7, 2008

HB 1550 [SS HCS HB 1550]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Expands the jurisdiction of juvenile courts, requires the Office of State Courts Administrator to conduct a study regarding juveniles, and revises the reimbursement of a certain drug court commissioner

AN ACT to repeal sections 167.031, 211.021, 211.033, 211.034, 211.041, 211.061, 211.071, 211.091, 211.101, 221.515, 478.466, and 559.600, RSMo, and to enact in lieu thereof thirteen new sections relating to courts, with penalty provisions and a contingent effective date for certain sections.

SECTION

- A. Enacting clause.
- 167.031. School attendance compulsory, who may be excused — nonattendance, penalty — home school, definition, requirements — school year defined — daily log, defense to prosecution — compulsory attendance age for the district defined.
- 211.021. Definitions.
- 211.033. Detention for violation of traffic ordinances — no civil or criminal liability created — contingent effective date.
- 211.034. Extension of juvenile court jurisdiction permitted, when — procedure — immunity from liability for certain persons, when — expiration date.
- 211.041. Continuing jurisdiction over child, exception, seventeen-year-old violating state or municipal laws.
- 211.061. Arrested child taken before juvenile court — transfer of prosecution to juvenile court — limitations on detention of juvenile — detention hearing, notice.
- 211.071. Certification of juvenile for trial as adult — procedure — mandatory hearing, certain offenses — misrepresentation of age, effect.
- 211.091. Petition in juvenile court — contents — dismissal, juvenile officer to assess impact on best interest of child.
- 211.101. Issuance of summons — notice — temporary custody of child — subpoenas.
- 221.515. Jailers authorized to serve arrest warrants on inmates — jailers may carry firearms, when — escaped prisoners, power of jailer to arrest.
- 478.466. Drug court commissioner, appointment, qualifications, compensation, powers and duties — surcharge (Jackson County).
- 559.600. Misdemeanor probation may be provided by contract with private entities, not to exclude board of probation and parole.
1. Definition of child, state courts administrator to conduct a study and issue a report, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 167.031, 211.021, 211.033, 211.034, 211.041, 211.061, 211.071, 211.091, 211.101, 221.515, 478.466, and 559.600 RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 167.031, 211.021, 211.033, 211.034, 211.041, 211.061, 211.071, 211.091, 211.101, 221.515, 478.466, 559.600, and 1, to read as follows:

167.031. SCHOOL ATTENDANCE COMPULSORY, WHO MAY BE EXCUSED — NONATTENDANCE, PENALTY — HOME SCHOOL, DEFINITION, REQUIREMENTS — SCHOOL YEAR DEFINED — DAILY LOG, DEFENSE TO PROSECUTION — COMPULSORY ATTENDANCE AGE FOR THE DISTRICT DEFINED. — 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the

academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that:

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

(a) Has as its primary purpose the provision of private or religious-based instruction;

(b) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.

(2) As evidence that a child is receiving regular instruction, the parent shall, except as otherwise provided in this subsection:

(a) Maintain the following records:

a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and

b. A portfolio of samples of the child's academic work; and

c. A record of evaluations of the child's academic progress; or

d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

(b) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location.

(3) The requirements of subdivision (2) of this subsection shall not apply to any pupil above the age of sixteen years.

3. Nothing in this section shall require a private, parochial, parish or home school to include in its curriculum any concept, topic, or practice in conflict with the school's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall be prohibited from dictating through rule, regulation or other device any statewide curriculum for private, parochial, parish or home schools.

4. A school year begins on the first day of July and ends on the thirtieth day of June following.

5. The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section or, in the case of a pupil over the age of sixteen years who attended a metropolitan school district the previous year, a written statement that the pupil is attending home school in compliance with this section shall be a defense to any prosecution under this section and to any charge or action for educational neglect brought pursuant to chapter 210, RSMo.

6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the district" shall mean:

(1) Seventeen years of age for any metropolitan school district for which the school board adopts a resolution to establish such compulsory attendance age; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted; and

(2) Sixteen years of age in all other cases.

The school board of a metropolitan school district for which the compulsory attendance age is seventeen years may adopt a resolution to lower the compulsory attendance age to sixteen years; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted.

[7. The provisions of this section shall apply to any parent, guardian, or other person in this state having charge, control, or custody of a child between the ages of fifteen and eighteen if such child has not received a high school diploma or its equivalent and a court order has been issued as to such child under section 211.034, RSMo.]

211.021. DEFINITIONS. — 1. As used in this chapter, unless the context clearly requires otherwise:

(1) "Adult" means a person seventeen years of age or older **except for seventeen year old children as defined in this section;**

(2) "Child" means [a] **any person under seventeen years of age and shall mean, in addition, any person over seventeen but not yet eighteen years of age alleged to have committed a status offense;**

(3) "Juvenile court" means the juvenile division or divisions of the circuit court of the county, or judges while hearing juvenile cases assigned to them;

(4) "Legal custody" means the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline of a child. Legal custody may be taken from a parent only by court action and if the legal custody is taken from a parent without termination of parental rights, the parent's duty to provide support continues even though the person having legal custody may provide the necessities of daily living;

(5) "Parent" means either a natural parent or a parent by adoption and if the child is illegitimate, "parent" means the mother;

(6) "Shelter care" means the temporary care of juveniles in physically unrestricting facilities pending final court disposition. These facilities may include:

(a) "Foster home", the private home of foster parents providing twenty-four-hour care to one to three children unrelated to the foster parents by blood, marriage or adoption;

(b) "Group foster home", the private home of foster parents providing twenty-four-hour care to no more than six children unrelated to the foster parents by blood, marriage or adoption;

(c) "Group home", a child care facility which approximates a family setting, provides access to community activities and resources, and provides care to no more than twelve children;

(7) "Status offense", **any offense as described in subdivision (2) of subsection 1 of section 211.031.**

2. The amendments to subsection 1 of this section, as provided for in this act, shall not take effect until such time as appropriations by the general assembly for additional

juvenile officer full-time equivalents and deputy juvenile officer full-time equivalents shall exceed by one million nine hundred thousand dollars the amount spent by the state for such officers in fiscal year 2007 and appropriations by the general assembly to single first class counties for juvenile court personnel costs shall exceed by one million nine hundred thousand dollars the amount spent by the state for such juvenile court personnel costs in fiscal year 2007 and notice of such appropriations has been given to the revisor of statutes.

211.033. DETENTION FOR VIOLATION OF TRAFFIC ORDINANCES — NO CIVIL OR CRIMINAL LIABILITY CREATED — CONTINGENT EFFECTIVE DATE. — 1. No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071 shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a juvenile detention facility.

2. Nothing in this section shall be construed as creating any civil or criminal liability for any law enforcement officer, juvenile officer, school personnel, or court personnel for any action taken or failure to take any action involving a minor child who remains under the jurisdiction of the juvenile court under this section if such action or failure to take action is based on a good faith belief by such officer or personnel that the minor child is not under the jurisdiction of the juvenile court.

3. The amendments to subsection 2 of this section, as provided for in this act, shall not take effect until such time as the provisions of section 211.021 shall take effect in accordance with subsection 2 of section 211.021.

211.034. EXTENSION OF JUVENILE COURT JURISDICTION PERMITTED, WHEN — PROCEDURE — IMMUNITY FROM LIABILITY FOR CERTAIN PERSONS, WHEN — EXPIRATION DATE. — 1. Any parent, legal guardian, or other person having legal custody of a minor child may, at any time after the minor child attains fifteen years of age and before the minor child attains eighteen years of age, petition the circuit court for the county where the minor child and parent, legal guardian, or other person having legal custody of the minor child reside to extend the jurisdiction of the juvenile court until the minor child reaches the age of eighteen years.

2. The petition shall be accompanied by verified proof of service on the minor child and certified copies of documents demonstrating that the petitioner is the parent, legal guardian, or other legal custodian of the minor child. If the petitioner is not the natural parent of the minor child, the petition shall be accompanied by:

- (1) An affidavit from at least one of the child's natural parents consenting to the granting of the petition; or
- (2) An affidavit from the petitioner stating that the natural parents:
 - (a) Are deceased;
 - (b) Have been declared legally incompetent;
 - (c) Have had their parental rights as to the minor child terminated by a court of competent jurisdiction;
 - (d) Have voluntarily surrendered their parental rights as to the minor child;
 - (e) Have abandoned the minor child;
 - (f) Are unknown; or
 - (g) Are otherwise unavailable, in which case, the affidavit shall state the reasons why the natural parents are unavailable.

In all cases where any parent, legal guardian, or other person having legal custody of a minor child petitions the court to extend the jurisdiction of the juvenile court until the minor child's eighteenth birthday, the court shall appoint an attorney to represent the minor child. An individual filing the petition shall pay the attorney fees of the minor child.

3. Upon the filing of a petition under this section and a determination by the court in favor of the petitioner, the circuit court shall issue an order declaring that the minor child shall remain under the jurisdiction of the juvenile court for all purposes under state law until the minor child reaches eighteen years of age; except that, for purposes of criminal law and procedure, including arrest, prosecution, trial, and punishment, if the minor is certified as an adult, the minor shall remain a certified adult despite the issuance of a court order under this section. Such minor child shall be subject to the compulsory school attendance requirements of section 167.031, RSMo, until the minor child receives a high school diploma or its equivalent, or reaches eighteen years of age. The court order shall be filed with the circuit clerk for the county where the petitioner resides.

4. Nothing in this section shall be construed as creating any civil or criminal liability for any law enforcement officer, juvenile officer, school personnel, or court personnel for any action taken or failure to take any action involving a minor child who remains under the jurisdiction of the juvenile court under this section if such action or failure to take action is based on a good faith belief by such officer or personnel that the minor child is not under the jurisdiction of the juvenile court.

5. The provisions of this section shall expire when the amendments to subsection 1 of section 211.021 take effect in accordance with subsection 2 of section 211.021.

211.041. CONTINUING JURISDICTION OVER CHILD, EXCEPTION, SEVENTEEN-YEAR-OLD VIOLATING STATE OR MUNICIPAL LAWS. — When jurisdiction over the person of a child has been acquired by the juvenile court under the provisions of this chapter in proceedings coming within the applicable provisions of section 211.031, the jurisdiction of the child may be retained for the purpose of this chapter until he **or she** has attained the age of twenty-one years, except in cases where he **or she** is committed to and received by the division of youth services, unless jurisdiction has been returned to the committing court by provisions of chapter 219, RSMo, through requests of the court to the division of youth services and except in any case where he **or she** has not paid an assessment imposed in accordance with section 211.181 or in cases where the judgment for restitution entered in accordance with section 211.185 has not been satisfied. Every child over whose person the juvenile court retains jurisdiction shall be prosecuted under the general law for any violation of a state law or of a municipal ordinance which he **or she** commits after he **or she** becomes seventeen years of age. The juvenile court shall have no jurisdiction with respect to any such violation and, so long as it retains jurisdiction of the child, shall not exercise its jurisdiction in such a manner as to conflict with any other court's jurisdiction as to any such violation.

211.061. ARRESTED CHILD TAKEN BEFORE JUVENILE COURT — TRANSFER OF PROSECUTION TO JUVENILE COURT — LIMITATIONS ON DETENTION OF JUVENILE — DETENTION HEARING, NOTICE. — 1. When a child is taken into custody with or without warrant for an offense, the child, together with any information concerning [him] **the child** and the personal property found in [his] **the child's** possession, shall be taken immediately and directly before the juvenile court or delivered to the juvenile officer or person acting for him.

2. If any person is taken before a circuit or associate circuit judge not assigned to juvenile court or a municipal judge, and it is then, or at any time thereafter, ascertained that he **or she** was under the age of seventeen years at the time he **or she** is alleged to have committed the offense, or that he **or she** is subject to the jurisdiction of the juvenile court as provided by this chapter, it is the duty of the judge forthwith to transfer the case or refer the matter to the juvenile court, and direct the delivery of such person, together with information concerning him **or her** and the personal property found in his **or her** possession, to the juvenile officer or person acting as such.

3. When the juvenile court is informed that a child is in detention it shall examine the reasons therefor and shall immediately:

- (1) Order the child released; or

(2) Order the child continued in detention until a detention hearing is held. An order to continue the child in detention shall only be entered upon the filing of a petition or motion to modify and a determination by the court that probable cause exists to believe that the child has committed acts specified in the petition or motion that bring the child within the jurisdiction of the court under subdivision (2) or (3) of subsection 1 of section 211.031.

4. A juvenile shall not remain in detention for a period greater than twenty-four hours unless the court orders a detention hearing. If such hearing is not held within three days, excluding Saturdays, Sundays and legal holidays, the juvenile shall be released from detention unless the court for good cause orders the hearing continued. The detention hearing shall be held within the judicial circuit at a date, time and place convenient to the court. Notice of the date, time and place of a detention hearing, and of the right to counsel, shall be given to the juvenile and his **or her** custodian in person, by telephone, or by such other expeditious method as is available.

211.071. CERTIFICATION OF JUVENILE FOR TRIAL AS ADULT — PROCEDURE — MANDATORY HEARING, CERTAIN OFFENSES — MISREPRESENTATION OF AGE, EFFECT. — 1. If a petition alleges that a child between the ages of twelve and seventeen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, RSMo, second degree murder under section 565.021, RSMo, first degree assault under section 565.050, RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section 566.060, RSMo, first degree robbery under section 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly committed by any person between seventeen and twenty-one years of age over whom the juvenile court has retained continuing jurisdiction shall automatically terminate and that offense shall be dealt with in the court of general jurisdiction as provided in section 211.041.

3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any action or proceeding which occurs based upon the misrepresentation. Any evidence obtained during the period of time in which a child misrepresents his **or her** age may be used against the child and will be subject only to rules of evidence applicable in adult proceedings.

4. Written notification of a transfer hearing shall be given to the juvenile and his **or her** custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is to determine whether the child is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the child is not a proper subject to be dealt with under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the child under the general law.

5. The juvenile officer may consult with the office of prosecuting attorney concerning any offense for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses and all other records or reports relating to the offense alleged to have been committed by the child. The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information

regarding the child and the offense until the juvenile court at a judicial hearing has determined that the child is not a proper subject to be dealt with under the provisions of this chapter.

6. A written report shall be prepared in accordance with this chapter developing fully all available information relevant to the criteria which shall be considered by the court in determining whether the child is a proper subject to be dealt with under the provisions of this chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice system. These criteria shall include but not be limited to:

- (1) The seriousness of the offense alleged and whether the protection of the community requires transfer to the court of general jurisdiction;
- (2) Whether the offense alleged involved viciousness, force and violence;
- (3) Whether the offense alleged was against persons or property with greater weight being given to the offense against persons, especially if personal injury resulted;
- (4) Whether the offense alleged is a part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation under the juvenile code;
- (5) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions and other placements;
- (6) The sophistication and maturity of the child as determined by consideration of his home and environmental situation, emotional condition and pattern of living;
- (7) The age of the child;
- (8) The program and facilities available to the juvenile court in considering disposition;
- (9) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court; and
- (10) Racial disparity in certification.

7. If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

- (1) Findings showing that the court had jurisdiction of the cause and of the parties;
 - (2) Findings showing that the child was represented by counsel;
 - (3) Findings showing that the hearing was held in the presence of the child and his counsel;
- and
- (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

8. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

9. When a petition has been dismissed thereby permitting a child to be prosecuted under the general law, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance.

10. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.

11. If the court does not dismiss the petition to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

211.091. PETITION IN JUVENILE COURT — CONTENTS — DISMISSAL, JUVENILE OFFICER TO ASSESS IMPACT ON BEST INTEREST OF CHILD. — 1. The petition shall be entitled "In the interest of, a child under seventeen years of age"[. If a petition is filed pursuant to the provisions of subdivision (1) of subsection 1 of section 211.031, the petition shall be entitled] **or** "In the interest of, a child [under] seventeen years of age" **or** "In the interest of, a person seventeen years of age" **as appropriate to the subsection of section 211.031 that provides the basis for the filing of the petition.**

2. The petition shall set forth plainly:

(1) The facts which bring the child or person seventeen years of age within the jurisdiction of the court;

(2) The full name, birth date, and residence of the child or person seventeen years of age;

(3) The names and residence of his **or her** parents, if living;

(4) The name and residence of his **or her** legal guardian if there be one, of the person having custody of the child or person seventeen years of age or of the nearest known relative if no parent or guardian can be found; and

(5) Any other pertinent data or information.

3. If any facts required in subsection 2 of this section are not known by the petitioner, the petition shall so state.

4. Prior to the voluntary dismissal of a petition filed under this section, the juvenile officer shall assess the impact of such dismissal on the best interests of the child, and shall take all actions practicable to minimize any negative impact.

211.101. ISSUANCE OF SUMMONS — NOTICE — TEMPORARY CUSTODY OF CHILD — SUBPOENAS. — 1. After a petition has been filed, unless the parties appear voluntarily, the juvenile court shall issue a summons in the name of the state of Missouri requiring the person who has custody of the child or person seventeen years of age to appear personally and, unless the court orders otherwise, to bring the child or person seventeen years of age before the court, at the time and place stated.

2. If the person so summoned is other than a parent or guardian of the child or person seventeen years of age, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed.

3. If it appears that the child or person seventeen years of age is in such condition or surroundings that his **or her** welfare requires that his **or her** custody be immediately assumed by the court, the judge may order, by endorsement upon the summons, the officer serving it to take the child or person seventeen years of age into custody at once.

4. Subpoena may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

221.515. JAILERS AUTHORIZED TO SERVE ARREST WARRANTS ON INMATES — JAILERS MAY CARRY FIREARMS, WHEN — ESCAPED PRISONERS, POWER OF JAILER TO ARREST. —

1. Any person designated a jailer under the provisions of this chapter shall have the power to serve [an arrest warrant] **civil process and arrest warrants** on any person who **surrenders himself or herself to the facility under an arrest warrant** or is already an inmate in the custody of the facility in or at which such jailer is employed.

2. **Under the rules and regulations of the sheriff, employees designated as jailers may carry firearms when necessary for the proper discharge of their duties as jailers in this state under the provisions of this chapter.**

3. **Such persons authorized to act by the sheriff as jailers under the rules and regulations of the sheriff shall have the same power as granted any other law enforcement officers in this state to arrest escaped prisoners and apprehend all persons who may be aiding and abetting such escape while in the custody of the sheriff in accordance with state law.**

478.466. DRUG COURT COMMISSIONER, APPOINTMENT, QUALIFICATIONS, COMPENSATION, POWERS AND DUTIES — SURCHARGE (JACKSON COUNTY). — 1. In the sixteenth judicial circuit consisting of the county of Jackson, a majority of the court en banc may appoint one person, who shall possess the same qualifications as an associate circuit judge, to act as drug court commissioner. The commissioner shall be appointed for a term of four years. The compensation of the commissioner shall be the same as that of an associate circuit judge and[, subject to appropriation from the county legislature of the county wherein such circuit is wholly

located, reimbursed from proceeds from the county antidrug sales tax adopted pursuant to section 67.547, RSMo. The county wherein such circuit is wholly located shall pay to and reimburse the state for the actual costs of the salary and benefits of the drug commissioner appointed pursuant to this section] **shall be paid out of the same source as the compensation of all other drug court commissioners in the state.** The retirement benefits of such commissioner shall be the same as those of an associate circuit judge, payable in the same manner and from the same source as those of an associate circuit judge. Subject to approval or rejection by a circuit judge, the commissioner shall have all the powers and duties of a circuit judge. A circuit judge shall by order of record reject or confirm any order, judgment and decree of the commissioner within the time the judge could set aside such order, judgment or decree had the same been made by him. If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation.

2. The court administrator of the sixteenth judicial circuit shall charge and collect a surcharge of thirty dollars in all proceedings assigned to the drug commissioner for disposition, provided that the surcharge shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality. Moneys obtained from such surcharge shall be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo, and payable to the drug commissioner for operation of the drug court.

559.600. MISDEMEANOR PROBATION MAY BE PROVIDED BY CONTRACT WITH PRIVATE ENTITIES, NOT TO EXCLUDE BOARD OF PROBATION AND PAROLE. — In cases where the board of probation and parole is not required under section 217.750, RSMo, to provide probation supervision and rehabilitation services for misdemeanor offenders, the circuit and associate circuit judges in a circuit may contract with one or more private entities **or other court-approved entity** to provide such services. The court-approved [private] entity, **including private or other entities**, shall act as a misdemeanor probation office in that circuit and shall, pursuant to the terms of the contract, supervise persons placed on probation by the judges for class A, B, and C misdemeanor offenses, specifically including persons placed on probation for violations of section 577.023, RSMo. Nothing in sections 559.600 to 559.615 shall be construed to prohibit the board of probation and parole, or the court, from supervising misdemeanor offenders in a circuit where the judges have entered into a contract with a [private] probation entity.

SECTION 1. DEFINITION OF CHILD, STATE COURTS ADMINISTRATOR TO CONDUCT A STUDY AND ISSUE A REPORT, WHEN. — **The office of state courts administrator shall conduct a study and report to the general assembly by June 30, 2009, on the impact of changing the definition of child, as used in section 211.031, RSMo, to include any person over seventeen years of age but not yet eighteen years of age alleged to have committed a status offense as defined in subdivision (2) of subsection 1 of section 211.031, RSMo. The report shall contain information regarding the impact on caseloads of juvenile officers, including the average increase in caseload per juvenile officer for each judicial circuit, and the number of children affected by the change in definition.**

Approved July 10, 2008

HB 1570 [SCS HB 1570]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Adds the services of guardians ad litem to the priority list when a family court is determining how to spend moneys in the county family services and justice fund

AN ACT to repeal section 488.2300, RSMo, and to enact in lieu thereof two new sections relating to guardians ad litem.

SECTION

- A. Enacting clause.
- 484.302. Standards for representation to be adopted statewide, when.
- 488.2300. Family services and justice fund established, where — purpose — surcharge, collection, payment — fundings for enhanced services, conditions — reimbursement for costs of salaries.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 488.2300, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 484.302 and 488.2300, to read as follows:

484.302. STANDARDS FOR REPRESENTATION TO BE ADOPTED STATEWIDE, WHEN. — **Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011.**

488.2300. FAMILY SERVICES AND JUSTICE FUND ESTABLISHED, WHERE — PURPOSE — SURCHARGE, COLLECTION, PAYMENT — FUNDINGS FOR ENHANCED SERVICES, CONDITIONS — REIMBURSEMENT FOR COSTS OF SALARIES. — 1. A "Family Services and Justice Fund" is hereby established in each county or circuit with a family court, for the purpose of aiding with the operation of the family court divisions and services provided by those divisions. In circuits or counties having a family court, the circuit clerk shall charge and collect a surcharge of thirty dollars in all proceedings falling within the jurisdiction of the family court. The surcharge shall not be charged when no court costs are otherwise required, shall not be charged against the petitioner for actions filed pursuant to the provisions of chapter 455, RSMo, but may be charged to the respondent in such actions, shall not be charged to a government agency and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

2. In juvenile proceedings under chapter 211, RSMo, a judgment of up to thirty dollars may be assessed against the child, parent or custodian of the child, in addition to other amounts authorized by law, in informal adjustments made under the provisions of sections 211.081 and 211.083, RSMo, and in an order of disposition or treatment under the provisions of section 211.181, RSMo. The judgment may be ordered paid to the clerk of the circuit where the assessment is imposed.

3. All sums collected pursuant to this section and section 487.140, RSMo, shall be payable to the various county family services and justice funds.

4. Any moneys in the family services and justice fund not expended for salaries of commissioners, family court administrators and family court staff shall be used toward funding the enhanced services provided as a result of the establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to services such as **guardians ad litem**, mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as

designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for mediation in any cause of action in which domestic violence is alleged.

5. From the funds collected pursuant to this section and retained in the family services and justice fund, each circuit or county in which a family court commissioner in addition to those commissioners existing as juvenile court commissioners on August 28, 1993, have been appointed pursuant to sections 487.020 to 487.040, RSMo, shall pay to and reimburse the state for the actual costs of that portion of the salaries of family court commissioners appointed pursuant to the provisions of sections 487.020 to 487.040, RSMo.

6. No moneys deposited in the family services and justice fund may be expended for capital improvements.

Approved June 25, 2008

HB 1575 [HCS HB 1575]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates a portion of State Highway 87 in Moniteau County as the "Lance Corporal Leon B. Deraps Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to a memorial highway designation.

SECTION

A. Enacting clause.

227.393. Lance Corporal Leon B. Deraps Memorial Highway designated for a portion of Highway 87 in Moniteau County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.393, to read as follows:

227.393. LANCE CORPORAL LEON B. DERAPS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 87 IN MONITEAU COUNTY. — The portion of Highway 87 in Moniteau County from the intersection of Highway AA south four miles shall be designated the "Lance Corporal Leon B. Deraps Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

Approved June 17, 2008

HB 1608 [HB 1608]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes counties to preserve electronic images of original cancelled checks instead of the actual check

AN ACT to repeal section 50.172, RSMo, and to enact in lieu thereof one new section relating to preservation of county documents.

SECTION

A. Enacting clause.

50.172. Documents approved by commission to be preserved — destruction of documents, method — replacement of lost or destroyed checks, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 50.172, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 50.172, to read as follows:

50.172. DOCUMENTS APPROVED BY COMMISSION TO BE PRESERVED — DESTRUCTION OF DOCUMENTS, METHOD — REPLACEMENT OF LOST OR DESTROYED CHECKS, PROCEDURE.

— 1. The original of all accounts, vouchers and documents approved or to be approved by the county commission shall be preserved in the office of the county clerk or at some other place approved by the secretary of state pursuant to the provisions of section 28.120, RSMo; and copies thereof shall be given to any person, county, city, town, township and school or special road district interested therein upon payment of the usual fee for copying same. **For purposes of this section, "original" shall include any electronic image of an original cancelled check that is the legal equivalent of an original check under the federal Check 21 Act, 12 U.S.C. 5001, et seq., as amended.**

2. Annually or in accordance with destruction rules adopted by the secretary of state, the county clerk may destroy by burning or by any other method satisfactory to the county commission all paid accounts, vouchers, duplicate receipts, checks and other documents which may have been on file in the office of the county clerk for a period of five years or longer, except such documents as may at the time be the subject of litigation or dispute. The plan for the retention and destruction of financial records shall follow the generally recognized governmental reporting practices.

3. Lost or destroyed county checks shall be replaced in accordance with rules of procedure therefor as established by the state auditor in the uniform accounting system established for counties pursuant to the provisions of section 29.180, RSMo.

Approved June 10, 2008

HB 1628 [HB 1628]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes an exemption from the alternative fuel decal and tax requirement for historical vehicles powered by liquid petroleum or natural gas

AN ACT to repeal section 142.869, RSMo, and to enact in lieu thereof one new section relating to alternative fuel decals, with penalty provisions.

SECTION

A. Enacting clause.

142.869. Alternative fuel decal fee in lieu of tax — decal — penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 142.869, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 142.869, to read as follows:

142.869. ALTERNATIVE FUEL DECAL FEE IN LIEU OF TAX — DECAL — PENALTY. — 1. The tax imposed by this chapter shall not apply to passenger motor vehicles, buses as defined in section 301.010, RSMo, or commercial motor vehicles registered in this state which are powered by alternative fuel, and for which a valid decal has been acquired as provided in this section. The owners or operators of such motor vehicles shall, in lieu of the tax imposed by section 142.803, pay an annual alternative fuel decal fee as follows: seventy-five dollars on each passenger motor vehicle, school bus as defined in section 301.010, RSMo, and commercial motor vehicle with a licensed gross vehicle weight of eighteen thousand pounds or less; one hundred dollars on each motor vehicle with a licensed gross weight in excess of eighteen thousand pounds but not more than thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; one hundred fifty dollars on each motor vehicle with a licensed gross vehicle weight in excess of eighteen thousand pounds but less than or equal to thirty-six thousand pounds, and each passenger-carrying motor vehicle subject to the registration fee provided in sections 301.059, 301.061 and 301.063, RSMo; two hundred fifty dollars on each motor vehicle with a licensed gross weight in excess of thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; and one thousand dollars on each motor vehicle with a licensed gross vehicle weight in excess of thirty-six thousand pounds. **Notwithstanding provisions of this section to the contrary, motor vehicles licensed as historic under section 301.131, RSMo, which are powered by alternative fuel shall be exempt from both the tax imposed by this chapter and the alternative fuel decal requirements of this section.**

2. Except interstate fuel users and vehicles licensed under a reciprocity agreement as defined in section 142.617, the tax imposed by section 142.803 shall not apply to motor vehicles registered outside this state which are powered by alternative fuel, and for which a valid temporary alternative fuel decal has been acquired as provided in this section. The owners or operators of such motor vehicles shall, in lieu of the tax imposed by section 142.803, pay a temporary alternative fuel decal fee of eight dollars on each such vehicle. Such decals shall be valid for a period of fifteen days from the date of issuance and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued. Such decal and fee shall not be transferable. All proceeds from such decal fees shall be deposited as specified in section 142.345. Alternative fuel dealers selling such decals in accordance with rules and regulations prescribed by the director shall be allowed to retain fifty cents for each decal fee timely remitted to the director.

3. The director shall annually, on or before January thirty-first of each year, collect or cause to be collected from owners or operators of the motor vehicles specified in subsection 1 of this section the annual decal fee. Applications for such decals shall be supplied by the department of revenue. In the case of a motor vehicle which is not in operation by January thirty-first of any year, a decal may be purchased for a fractional period of such year, and the amount of the decal fee shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year.

4. Upon the payment of the fee required by subsection 1 of this section, the director shall issue a decal, which shall be valid for the current calendar year and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued.

5. The decal fee paid pursuant to subsection 1 of this section for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle and, if the LP gas or natural gas equipment is removed from a motor vehicle upon a change of ownership and is reinstalled in another motor vehicle, upon such reinstallation. Such transfers shall be accomplished in accordance with rules and regulations promulgated by the director.

6. It shall be unlawful for any person to operate a motor vehicle required to have an alternative fuel decal upon the highways of this state without a valid decal.

7. No person shall cause to be put, or put, LP gas or natural gas into the fuel supply receptacle of a motor vehicle required to have an alternative fuel decal unless the motor vehicle has a valid decal attached to it. Sales of fuel placed in the supply receptacle of a motor vehicle displaying such decal shall be recorded upon an invoice, which invoice shall include the decal number, the motor vehicle license number and the number of gallons placed in such supply receptacle.

8. Any person violating any provision of this section is guilty of an infraction and shall, upon conviction thereof, be fined five hundred dollars.

9. Motor vehicles displaying a valid alternative fuel decal are exempt from the licensing and reporting requirements of this chapter.

Approved June 19, 2008

HB 1640 [SCS HB 1640]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Debbi Daniel Law which disallows court-ordered adoption decrees or a adoptive parents' or adoptee's request for a new birth certificate changing the name of a birth parent in an adoption

AN ACT to repeal section 193.125, RSMo, and to enact in lieu thereof one new section relating to birth certificates.

SECTION

A. Enacting clause.

193.125. Debbi Daniel law — adoption — new birth certificate, when — reports — duties — inspection of certain records by court order only.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 193.125, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 193.125, to read as follows:

193.125. DEBBI DANIEL LAW — ADOPTION — NEW BIRTH CERTIFICATE, WHEN — REPORTS — DUTIES — INSPECTION OF CERTAIN RECORDS BY COURT ORDER ONLY. — 1. This section shall be known and may be cited as the "Debbi Daniel Law".

2. Except as otherwise provided in subsection 3 of this section, for each adoption decreed by a court of competent jurisdiction in this state, the court shall require the preparation of a certificate of decree of adoption on a form as prescribed or approved by the state registrar. The certificate of decree of adoption shall include such facts as are necessary to locate and

identify the certificate of birth of the person adopted, and shall provide information necessary to establish a new certificate of birth of the person adopted and shall identify the court and county of the adoption and be certified by the clerk of the court. The state registrar shall file the original certificate of birth with the certificate of decree of adoption and such file may be opened by the state registrar only upon receipt of a certified copy of an order as decreed by the court of adoption.

[2.] 3. No new certificate of birth shall be established following an adoption by a stepparent if so requested by the adoptive parent or the adoptive stepparent of the child.

4. Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The social welfare agency or any person having knowledge of the facts shall supply the court with such additional information as may be necessary to complete the report. The provision of such information shall be prerequisite to the issuance of a final decree in the matter by the court.

[3.] 5. Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.

[4.] 6. Not later than the fifteenth day of each calendar month or more frequently as directed by the state registrar the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulment of adoption and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

[5.] 7. When the state registrar shall receive a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, he or she shall forward such report to the state registrar in the state of birth.

[6.] 8. In a case of adoption in this state of a person not born in any state, territory or possession of the United States or country not covered by interchange agreements, the state registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in the name of the adopted person, as decreed by the court. The state registrar shall file the certificate of the decree of adoption, and such documents may be opened by the state registrar only by an order of court. The birth certificate prepared under this subsection shall have the same legal weight as evidence as a delayed or altered birth certificate as provided in section 193.235.

[7.] 9. The department, upon receipt of proof that a person has been adopted by a Missouri resident pursuant to laws of countries other than the United States, shall prepare a birth certificate in the name of the adopted person as decreed by the court of such country. If such proof contains the surname of either adoptive parent, the department of health and senior services shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of the name of the adopted person shall be made by a court of competent jurisdiction. The proof of adoption required by the department shall include a copy of the original birth certificate and adoption decree, an English translation of such birth certificate and adoption decree, and a copy of the approval of the immigration of the adopted person by the Immigration and Naturalization Service of the United States government which shows the child lawfully entered the United States. The authenticity of the translation of the birth certificate and adoption decree required by this subsection shall be sworn to by the translator in a notarized document. The state registrar shall file such documents received by the department relating to such adoption and such documents may be opened by the state registrar only by an order of a court. A birth certificate pursuant to this subsection shall be issued upon request of one of the adoptive parents of such adopted person or upon request of the adopted person if of legal age. The birth certificate prepared pursuant to the provisions of this subsection shall have the same legal weight as evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

[8.] **10.** If no certificate of birth is on file for the person under twelve years of age who has been adopted, a belated certificate of birth shall be filed with the state registrar as provided in sections 193.005 to 193.325 before a new birth record is to be established as result of adoption. A new certificate is to be established on the basis of the adoption under this section and shall be prepared on a certificate of live birth form.

[9.] **11.** If no certificate of birth has been filed for a person twelve years of age or older who has been adopted, a new birth certificate is to be established under this section upon receipt of proof of adoption as required by the department. A new certificate shall be prepared in the name of the adopted person as decreed by the court, registering adopted parents' names. The new certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed in a sealed file and shall not be subject to inspection except upon an order of the court.

Approved June 19, 2008

HB 1670 [HB 1670]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the requirement for certification by the Department of Natural Resources before a sales and use tax exemption applies to the purchase or lease of certain items used to monitor water and air pollution

AN ACT to repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales tax exemptions for certain equipment.

SECTION

A. Enacting clause.

144.030. Exemptions from state and local sales and use taxes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into

foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, [and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action];

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, [and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action];

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

- (a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not

within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo.

Approved June 19, 2008

HB 1678 [SS HB 1678]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding members of the military and their families

AN ACT to repeal sections 41.1010, 42.007, 160.053, 160.518, 168.021, 170.011, and 620.515, RSMo, and to enact in lieu thereof eleven new sections relating to members of the military and their families.

SECTION

- A. Enacting clause.
- 41.1010. Missouri military preparedness and enhancement commission established, purpose, members, duties.
- 42.007. Missouri veterans' commission established in the department of public safety — members, qualifications, appointment, terms, vacancies, expenses — officers, terms — meetings — powers and duties, staff — volunteers deemed unpaid employees, consequences.
- 160.053. Child eligible for kindergarten and summer school, when — child eligible for first grade, when — state aid exception.
- 160.518. Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers — summary waiver of pupil testing requirements — waiver void, when — scores not counted, when — alternative assessments for special education students — adjustments administered, when — waivers of resources and process standards, when.
- 160.2000. Text of compact.
- 168.021. Issuance of teachers' licenses — effect of certification in another state and subsequent employment in this state.
- 170.011. Courses in the constitutions, American history and Missouri government, required, penalty — waiver, when — student awards — requirements not applicable to foreign exchange students.
- 173.234. Definitions — grants to be awarded, when, duration — duties of the board — rulemaking authority — eligibility criteria — sunset provision.
- 173.900. Combat veteran defined — tuition limit for combat veterans, procedure.
- 452.412. Military service of parent not to be a basis for modification of a visitation or custody order.
- 620.515. Hero at home program established to assist members of the national guard and their families — report to general assembly.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 41.1010, 42.007, 160.053, 160.518, 168.021, 170.011, and 620.515, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 41.1010, 42.007, 160.053, 160.518, 160.2000, 168.021, 170.011, 173.234, 173.900, 452.412 and 620.515, to read as follows:

41.1010. MISSOURI MILITARY PREPAREDNESS AND ENHANCEMENT COMMISSION ESTABLISHED, PURPOSE, MEMBERS, DUTIES. — 1. There is hereby established the "Missouri Military Preparedness and Enhancement Commission". The commission shall have as its purpose the design and implementation of measures intended to protect, retain, and enhance the present and future mission capabilities at the military posts or bases within the state. The commission shall consist of nine members:

- (1) Five members to be appointed by the governor;
 - (2) Two members of the house of representatives, one appointed by the speaker of the house of representatives, and one appointed by the minority floor leader;
 - (3) Two members of the senate, one appointed by the president pro tempore, and one appointed by the minority floor leader;
 - (4) The director of the department of economic development or the director's designee, ex officio;
 - (5) **The chairman of the Missouri veterans' commission or the chairman's designee, ex officio.**
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No more than three of the five members appointed by the governor shall be of the same political party. To be eligible for appointment by the governor, a person shall have demonstrated experience in economic development, the defense industry, military installation operation, environmental issues, finance, local government, or the use of air space for future military missions. Appointed members of the commission shall serve three-year terms, except that of the initial appointments made by the governor, two shall be for one-year terms, two shall be for two-year terms, and one shall be for a three-year term. No appointed member of the commission shall serve more than six years total. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

2. Members of the commission shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's official duties.

3. A chair of the commission shall be selected by the members of the commission.

4. The commission shall meet at least quarterly and at such other times as the chair deems necessary.

5. The commission shall be funded by an appropriation limited to that purpose. Any expenditure constituting more than ten percent of the commission's annual appropriation shall be based on a competitive bid process.

6. The commission shall:

(1) Advise the governor and the general assembly on military issues and economic and industrial development related to military issues;

(2) Make recommendations regarding:

(a) Developing policies and plans to support the long-term viability and prosperity of the military, active and **retiree, and** civilian **military employees**, in this state, including promoting strategic regional alliances that may extend over state lines;

(b) Developing methods to improve private and public employment opportunities for former members of the military **and their families** residing in this state; and

(c) Developing methods to assist defense-dependent communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses;

(3) Provide information to communities, the general assembly, the state's congressional delegation, and state agencies regarding federal actions affecting military installations and missions;

(4) Serve as a clearinghouse for:

(a) Defense economic adjustment and transition information and activities; and

(b) Information concerning the following:

a. Issues related to the operating costs, missions, and strategic value of federal military installations located in the state;

b. Employment issues for communities that depend on defense bases and in defense-related businesses; and

c. Defense strategies and incentive programs that other states are using to maintain, expand, and attract new defense contractors;

(5) Provide assistance to communities that have experienced a defense-related closure or realignment;

(6) Assist communities in the design and execution of programs that enhance a community's relationship with military installations and defense-related businesses, including regional alliances that may extend over state lines;

(7) Assist communities in the retention and recruiting of defense-related businesses, including fostering strategic regional alliances that may extend over state lines;

(8) Prepare a biennial strategic plan that:

(a) Fosters the enhancement of military value of the contributions of Missouri military installations to national defense strategies;

- (b) Considers all current and anticipated base realignment and closure criteria; and
 - (c) Develops strategies to protect the state's existing military missions and positions the state to be competitive for new and expanded military missions;
 - (9) Encourage economic development in this state by fostering the development of industries related to defense affairs.
7. The commission shall prepare and present an annual report to the governor and the general assembly by December thirty-first of each year.
8. The department of economic development shall furnish administrative support and staff for the effective operation of the commission.

42.007. MISSOURI VETERANS' COMMISSION ESTABLISHED IN THE DEPARTMENT OF PUBLIC SAFETY — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCIES, EXPENSES — OFFICERS, TERMS — MEETINGS — POWERS AND DUTIES, STAFF — VOLUNTEERS DEEMED UNPAID EMPLOYEES, CONSEQUENCES. — 1. There is hereby established within the department of public safety the "Missouri Veterans' Commission", such commission to be a type III agency within the department of public safety under the Omnibus State Reorganization Act of 1974. All duties and activities carried on by the division of veterans' affairs on August 28, 1989, shall be vested in such commission as provided by the Omnibus Reorganization Act of 1974.

2. The commission shall be composed of five members, who shall be veterans appointed by the governor, with the advice and consent of the senate, for a four-year term; except that initial appointments to the commission shall consist of two veterans to serve four-year terms, two veterans to serve three-year terms, and one veteran to serve a two-year term. **In addition, the chair of the Missouri military preparedness and enhancement commission or the chair's designee shall be an ex officio member of the commission.**

3. The governor shall make all appointments to the commission from lists of nominees recommended by each of the statewide veterans' organizations incorporated in this state, chartered by Congress, or authorized under Title 38, United States Code. Vacancies shall be filled by appointment made in the same manner as the original appointments. A member of the commission shall be a resident of the state of Missouri but shall not be an employee of the state. Members of the commission shall not be compensated for their services, but shall be reimbursed from funds appropriated therefor for actual and necessary expenses incurred in the performance of their duties.

4. The commission shall organize by electing one member as chairman and another as vice chairman. Such officers shall serve for a term of two years. The commission shall meet no fewer than four times per calendar year, at the call of the chairman, and at times and places established by the chairman by written notice. The commission's executive director shall serve as secretary to the commission.

5. The commission shall aid and assist all veterans and their dependents and legal representatives, **who are legal Missouri residents or** who live in the state of Missouri, in all matters relating to the rights of veterans under the laws of the United States and under the rules and regulations of federal agencies, boards, commissions and other authorities which are in any manner concerned with the interest and welfare of veterans and their dependents. In addition to any other duties imposed by sections 42.002 to 42.135 and section 143.1001, RSMo, the commission shall:

- (1) Disseminate by all means available information concerning the rights of veterans and their dependents;
 - (2) Provide aid and assistance to all veterans, their dependents and legal representatives, in preparing, presenting and prosecuting claims for compensation, education, pensions, insurance benefits, hospitalization, rehabilitation and all other matters in which a veteran may have a claim against the United States or any state arising out of or connected with service in the military forces of the United States;
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(3) Prosecute all claims listed in subdivision (2) of this subsection to conclusion, when so authorized and empowered by a veteran, his survivors or legal representatives;

(4) Cooperate with the United States Employment Service, the United States Department of Veterans' Affairs and all federal and state offices legally concerned with and interested in the welfare of veterans and their dependents;

(5) Arrange for and accept through such mutual arrangements as may be made, the volunteer services, equipment, facilities, properties, supplies, funds and personnel of all federal, welfare, civic and service organizations, and other organized groups and individuals which are in furtherance of the purposes of sections 42.002 to 42.135 and section 143.1001, RSMo;

(6) Volunteers shall be deemed unpaid employees and shall be accorded the protection of the legal expense fund and liability provisions. Reimbursement for transportation and other necessary expenses may be furnished to those volunteers whose presence on special assignment is determined to be necessary by the commission. Such expenses shall be reimbursed from the regular appropriations of the commission. Volunteers may utilize state vehicles in the performance of commission-related duties, subject to those rules and regulations governing use of state vehicles by paid staff;

(7) Establish, maintain and operate offices throughout this state as necessary to carry out the purposes of sections 42.002 to 42.135 and section 143.1001, RSMo;

(8) Provide to the executive director of the commission all appropriate authority for the execution of the duties of the commission under this chapter;

(9) Employ such staff as necessary for performance of the duties and purposes of this chapter.

160.053. CHILD ELIGIBLE FOR KINDERGARTEN AND SUMMER SCHOOL, WHEN — CHILD ELIGIBLE FOR FIRST GRADE, WHEN — STATE AID EXCEPTION. — 1. If a school district maintains a kindergarten program, a child is eligible for admission to kindergarten and to the summer school session immediately preceding kindergarten, if offered, if the child reaches the age of five before the first day of August of the school year beginning in that calendar year **or if the child is a military dependent who has successfully completed an accredited prekindergarten program or has attended an accredited kindergarten program in another state.** A child is eligible for admission to first grade if the child reaches the age of six before the first day of August of the school year beginning in that calendar year **or if the child is a military dependent who has successfully completed an accredited kindergarten program in another state.**

2. Any kindergarten or grade one pupil beginning the school term and any pupil beginning summer school prior to a kindergarten school term in a metropolitan school district or an urban school district containing the greater part of the population of a city which has more than three hundred thousand inhabitants pursuant to section 160.054 or 160.055 and subsequently transferring to another school district in this state in which the child's birth date would preclude such child's eligibility for entrance shall be deemed eligible for attendance and shall not be required to meet the minimum age requirements. The receiving school district shall receive state aid for the child, notwithstanding the provisions of section 160.051.

3. Any child who completes the kindergarten year shall not be required to meet the age requirements of a district for entrance into grade one.

4. The provisions of this section relating to kindergarten instruction and state aid therefor, shall not apply during any particular school year to those districts which do not provide kindergarten classes that year.

160.518. STATEWIDE ASSESSMENT SYSTEM, STANDARDS, RESTRICTION — EXEMPLARY LEVELS, OUTSTANDING SCHOOL WAIVERS — SUMMARY WAIVER OF PUPIL TESTING REQUIREMENTS — WAIVER VOID, WHEN — SCORES NOT COUNTED, WHEN — ALTERNATIVE ASSESSMENTS FOR SPECIAL EDUCATION STUDENTS — ADJUSTMENTS ADMINISTERED, WHEN

— **WAIVERS OF RESOURCES AND PROCESS STANDARDS, WHEN.** — 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills, and competencies adopted by such board pursuant to subsection 1 of section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity, and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. The statewide assessment shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. "Exemplary levels" shall be measured by the assessment system developed pursuant to subsection 1 of this section, or until said assessment is available, by indicators approved for such use by the state board of education. The provisions of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

6. The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675, RSMo. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers and other education professionals as appropriate to research

available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, RSMo, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternate assessment shall evaluate the student's independent living skills, which include how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.

7. The state board of education shall also develop recommendations regarding alternate assessments for any military dependent who relocates to Missouri after the commencement of a school term, in order to accommodate such student while ensuring that he or she is proficient in the knowledge, skills, and competencies adopted under section 160.514.

8. Notwithstanding the provisions of subsections 1 to [6] 7 of this section, no later than June 30, 2006, the state board of education shall administer the following adjustments to the statewide assessment system:

(1) Align the performance standards of the statewide assessment system so that such indicators meet, but do not exceed, the performance standards of the National Assessment of Education Progress (NAEP) exam;

(2) Institute yearly examination of students in the required subject areas where compelled by existing federal standards, as of August 28, 2004; and

(3) Administer any other adjustments that the state board of education deems necessary in order to aid the state in satisfying existing federal requirements, as of August 28, 2004, including, but not limited to, the requirements contained in the federal No Child Left Behind Act. Grade-level expectations shall be considered when the state board of education establishes performance standards.

[8.] **9.** By July 1, 2006, the state board of education shall examine its rules and regulations and revise them to permit waivers of resource and process standards based upon achievement of performance profiles consistent with accreditation status.

160.2000. TEXT OF COMPACT. — Interstate Compact on Educational Opportunity for Military Children

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational,

procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

ARTICLE III APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;

2. members of the uniformed services now retired, except as provided in Section A;

3. veterans of the uniformed services, except as provided in Section A; and

4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV EDUCATIONAL RECORDS & ENROLLMENT

A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this

request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations - Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age - Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V

PLACEMENT & ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement - The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services - 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility - Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities - A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI ELIGIBILITY

A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements - Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year - Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government,

local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children". The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, nonvoting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. The Interstate Commission shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
 - B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
 - C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.
 - D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.
 - E. To establish and maintain offices which shall be located within one or more of the member states.
 - F. To purchase and maintain insurance and bonds.
 - G. To borrow, accept, hire or contract for services of personnel.
 - H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
 - I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
 - J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
 - K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
 - L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
 - M. To establish a budget and make expenditures.
 - N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
 - O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
 - P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.
 - Q. To establish uniform standards for the reporting, collecting and exchanging of data.
 - R. To maintain corporate books and records in accordance with the bylaws.
 - S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
 - T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.
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**ARTICLE XI
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

- a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
- b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
- c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected

from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act", of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

**ARTICLE XIII
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination - If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV**FINANCING OF THE INTERSTATE COMMISSION**

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV**MEMBER STATES, EFFECTIVE DATE AND AMENDMENT**

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI**WITHDRAWAL AND DISSOLUTION**

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

168.021. ISSUANCE OF TEACHERS' LICENSES — EFFECT OF CERTIFICATION IN ANOTHER STATE AND SUBSEQUENT EMPLOYMENT IN THIS STATE. — 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;
(b) Upon the basis of examination;
(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section; or

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;
(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of completion of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection.

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour

professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

- a. Has ten years of teaching experience as defined by the state board of education;
- b. Possesses a master's degree; or
- c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach. **The board shall promulgate rules to authorize the issuance of a provisional certificate of license, which shall allow the holder to assume classroom duties pending the completion of a criminal background check under section 168.133, for any applicant who:**

- (1) Is the spouse of a member of the armed forces stationed in Missouri;**
- (2) Relocated from another state within one year of the date of application;**
- (3) Underwent a criminal background check in order to be issued a teaching certificate of license from another state; and**
- (4) Otherwise qualifies under this section.**

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance.

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

170.011. COURSES IN THE CONSTITUTIONS, AMERICAN HISTORY AND MISSOURI GOVERNMENT, REQUIRED, PENALTY — WAIVER, WHEN — STUDENT AWARDS — REQUIREMENTS NOT APPLICABLE TO FOREIGN EXCHANGE STUDENTS. — 1. Regular courses of instruction in the Constitution of the United States and of the state of Missouri and in American history and institutions shall be given in all public and private schools in the state of Missouri, except privately operated trade schools, and shall begin not later than the seventh grade and continue in high school to an extent determined by the state commissioner of education, and shall continue in college and university courses to an extent determined by the state commissioner of higher education. In the 1990-91 school year and each year thereafter, local school districts maintaining high schools shall comply with the provisions of this section by offering in grade nine, ten, eleven, or twelve a course of instruction in the institutions, branches and functions of the government of the state of Missouri, including local governments, and of the government of the United States, and in the electoral process. A local school district maintaining such a high school shall require that prior to the completion of the twelfth grade each pupil, who receives a high school diploma or certificate of graduation on or after January 1, 1994, shall satisfactorily complete such a course of study. Such course shall be of at least one semester in length and may be two semesters in length. The department of elementary and secondary education may provide assistance in developing such a course if the district requests assistance. **A school district may elect to waive the requirements of this subsection for any student who transfers from outside the state to a Missouri high school if the student can furnish documentation deemed acceptable by the school district of the student's successful completion in any year from the ninth through the twelfth grade of a course of instruction in the institutions, branches, and functions of state government, including local governments, and of the government of the United States, and in the electoral process.**

2. American history courses at the elementary and secondary levels shall include in their proper time-line sequence specific referrals to the details and events of the racial equality movement that have caused major changes in United States and Missouri laws and attitudes.

3. No pupil shall receive a certificate of graduation from any public or private school other than private trade schools unless he has satisfactorily passed an examination on the provisions and principles of the Constitution of the United States and of the state of Missouri, and in American history and American institutions. **A school district may elect to waive the requirements of this subsection for any student who transfers from outside the state to a Missouri high school if the student can furnish documentation deemed acceptable by the school district of the student's successful completion in any year from the ninth through the twelfth grade of a course of instruction in the institutions, branches, and functions of state government, including local governments, and of the government of the United States, and in the electoral process.** A student of a college or university, who, after having completed a course of instruction prescribed in this section and successfully passed an examination on the United States Constitution, and in American history and American institutions required hereby, transfers to another college or university, is not required to complete another such course or pass another such examination as a condition precedent to his graduation from the college or university.

4. In the 1990-91 school year and each year thereafter, each school district maintaining a high school may annually nominate to the state board of education a student who has demonstrated knowledge of the principles of government and citizenship through academic achievement, participation in extracurricular activities, and service to the community. Annually, the state board of education shall select fifteen students from those nominated by the local school districts and shall recognize and award them for their academic achievement, participation and service.

5. [The state commissioner of education and the state commissioner of higher education shall make arrangements for carrying out the provisions of this section and prescribe a list of suitable texts adapted to the needs of the school grades and college courses, respectively.

6. The willful neglect of any superintendent, principal or teacher to observe and carry out the requirements of this section is sufficient cause for termination of his contract.

7.] The provisions of this section shall not apply to students from foreign countries who are enrolled in public or private high schools in Missouri, if such students are foreign exchange students sponsored by a national organization recognized by the department of elementary and secondary education.

173.234. DEFINITIONS — GRANTS TO BE AWARDED, WHEN, DURATION — DUTIES OF THE BOARD — RULEMAKING AUTHORITY — ELIGIBILITY CRITERIA — SUNSET PROVISION.
— 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

- (1) "Board", the coordinating board for higher education;
- (2) "Books", any books required for any course for which tuition was paid by a grant awarded under this section;
- (3) "Grant", the war veteran's survivors grant as established in this section;
- (4) "Institution of postsecondary education", any approved Missouri public institution of postsecondary education, as defined in section 173.205;
- (5) "Survivor", a child or spouse of a war veteran;
- (6) "Tuition", any tuition or incidental fee, or both, charged by an institution of postsecondary education for attendance at the institution by a student as a resident of this state. The tuition grant shall not exceed the amount of tuition charged a Missouri resident at the University of Missouri-Columbia for attendance;
- (7) "War veteran", a person who served in armed combat in the military and to whom the following criteria shall apply:
 - (a) The veteran was a Missouri resident when first entering the military service and at the time of death or injury; and
 - (b) The veteran dies as a result of combat action or the veteran's death was certified by a Veterans' Administration medical authority to be attributable to an illness that was contracted while serving in combat, or who became eighty percent disabled as a result of injuries or accidents sustained in combat action.

2. Within the limits of the amounts appropriated therefor, the coordinating board for higher education shall award annually up to twenty-five grants to survivors of war veterans to attend institutions of postsecondary education in this state, which shall continue to be awarded annually to eligible recipients as long as the recipient achieves and maintains a cumulative grade point average of at least two and one-half on a four point scale, or its equivalent. If the waiting list of eligible survivors exceeds fifty, the coordinating board may petition the general assembly to expand the quota. If the quota is not expanded, then the eligibility of survivors on the waiting list shall be extended.

3. A survivor may receive a grant under this section only so long as the survivor is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. In no event shall a survivor receive a grant beyond the completion of the first baccalaureate degree, regardless of age.

4. The coordinating board for higher education shall:

- (1) Promulgate all necessary rules and regulations for the implementation of this section; and
- (2) Provide the forms and determine the procedures necessary for a survivor to apply for and receive a grant under this section.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,

to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

6. In order to be eligible to receive a grant under this section, a survivor shall be certified as eligible by the Missouri veterans' commission. In the case of an illness-related death, such certification shall be made upon qualified medical certification by a Veterans' Administration medical authority that the illness was both a direct result of the veteran's combat service and a substantial factor in the cause of the resulting death of the veteran.

7. A survivor who is enrolled or has been accepted for enrollment as an undergraduate postsecondary student at an approved institution of postsecondary education, and who is selected to receive a grant under this section, shall receive the following:

(1) An amount not to exceed the actual tuition charged at the approved institution of postsecondary education where the survivor is enrolled or accepted for enrollment;

(2) An allowance of up to two thousand dollars per semester for room and board; and

(3) The actual cost of books, up to a maximum of five hundred dollars per semester.

8. A survivor who is a recipient of a grant may transfer from one approved public institution of postsecondary education to another without losing his or her entitlement under this section. The board shall make necessary adjustments in the amount of the grant. If a grant recipient at any time withdraws from the institution of postsecondary education so that under the rules and regulations of that institution he or she is entitled to a refund of any tuition, fees, room and board, books, or other charges, the institution shall pay the portion of the refund to which he or she is entitled attributable to the grant for that semester or similar grading period to the board.

9. If a survivor is granted financial assistance under any other student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the eligible survivor.

10. Nothing in this section shall be construed as a promise or guarantee that a person will be admitted to an institution of postsecondary education or to a particular institution of postsecondary education, will be allowed to continue to attend an institution of postsecondary education after having been admitted, or will be graduated from an institution of postsecondary education.

11. The benefits conferred by this section shall be available to any academically qualified surviving spouse or children of war veterans. Surviving children who are eligible shall be permitted to apply for full benefits conferred by this section until they reach twenty-five years of age.

12. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

173.900. COMBAT VETERAN DEFINED — TUITION LIMIT FOR COMBAT VETERANS, PROCEDURE. — 1. This act shall be known and may be cited as the "Missouri Returning Heroes' Education Act".

2. For the purpose of this section, the term "combat veteran" shall mean a person who served in armed combat in the military after September 11, 2001, and to whom the following criteria shall apply:

- (1) The veteran was a Missouri resident when first entering the military; and
- (2) The veteran was discharged from military service under honorable conditions.

3. All public institutions of higher education that receive any state funds appropriated by the general assembly shall limit the amount of tuition such institutions charge to combat veterans to fifty dollars per credit hour, as long as the veteran achieves and maintains a cumulative grade point average of at least two and one-half on a four point scale, or its equivalent. The tuition limitation shall only be applicable if the combat veteran is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. The period during which a combat veteran is eligible for a tuition limitation under this section shall expire at the end of the ten-year period beginning on the date of such veteran's last discharge from service.

4. The coordinating board for higher education shall ensure that all applicable institutions of higher education in this state comply with the provisions of this section and may promulgate rules for the efficient implementation of this section.

5. If a combat veteran is eligible to receive financial assistance under any other federal or state student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the veteran. The tuition limitation under this section shall be provided after all other federal and state aid for which the veteran is eligible has been applied, and no combat veteran shall receive more than the actual cost of attendance when the limitation is combined with other aid made available to such veteran.

6. Each institution may report to the board the amount of tuition waived in the previous fiscal year under the provisions of this act. This information may be included in each institution's request for appropriations to the board for the following year. The board may include this information in its appropriations recommendations to the governor and the general assembly. The general assembly may reimburse institutions for the cost of the waiver for the previous year as part of the operating budget. Nothing in this subsection shall be construed to deny a combat veteran a tuition limitation if the general assembly does not appropriate money for reimbursement to an institution.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

452.412. MILITARY SERVICE OF PARENT NOT TO BE A BASIS FOR MODIFICATION OF A VISITATION OR CUSTODY ORDER. — A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if the reason for the absence, relocation, or failure to comply is the party's activation to military service and deployment out-of-state.

620.515. HERO AT HOME PROGRAM ESTABLISHED TO ASSIST MEMBERS OF THE NATIONAL GUARD AND THEIR FAMILIES — REPORT TO GENERAL ASSEMBLY. — 1. This section shall be known and may be cited as the "[Guard] Hero at Home" program [whose], the purpose of which is to:

(1) Assist the spouse of an active duty national guard or reserve component service member reservist to address immediate needs and employment in an attempt to keep the family from falling into poverty while the primary income earner is on active duty, **and during the one-year period following discharge from deployment**; and

(2) Assist returning national guard troops **or reserve component service member reservists** with finding work in situations where an individual needs to rebuild business clientele or where an individual's job has been eliminated while such individual was deployed, **or where the individual otherwise cannot return to his or her previous employment.**

2. Subject to appropriation, the department of economic development shall [enter] **operate the hero at home program through existing programs or by entering** into a contract with qualified providers through local workforce investment boards [to provide the guard at home program. The department shall develop the criteria of the contract] . **Eligibility for the program shall be** based on the following criteria:

(1) Eligible participants in the program shall be those families where:

(a) The primary income earner was called to active duty in defense of the United States for a period of more than four months;

(b) The family's primary income is no longer available;

(c) The family is experiencing significant hardship due to financial burdens; and

(d) The family has no outside resources available to assist with such hardships;

(2) Services that may be provided to the family will be aimed at ameliorating the immediate crisis and providing a path for economic stability while the primary income is not available due to the active military commitment. **Services shall be made available up to one year following discharge from deployment.** Services may include, but not be limited to the following:

(a) Financial assistance to families facing financial crisis from overdue bills due to reduced income after the deployment of a spouse;

(b) Help paying day care costs to pursue training and or employment;

(c) Help covering the costs of transportation to training and or employment;

(d) Vocational evaluation and vocational counseling to help the individual choose a visible employment goal;

(e) Vocational training to acquire or upgrade skills needed to be marketable in the workforce;

(f) Paid internships and subsidized employment to train on the job; and

(g) Job placement assistance for those who don't require skills training;

(3) The department shall ensure the eligible providers are:

(a) Community-based not-for-profit agencies which have significant experience in job training, placement, and social services;

(b) Providers with extensive experience providing such services to veterans and implementing contracts with veteran organizations such as the department of veteran affairs;

(c) Providers which have attained the distinction of being accredited through a national accreditation body for training and or human services;

(d) Providers which are able to provide a twenty percent match to the program either through indirect or direct expenditures; and

(e) Providers with experience in the regions targeted for the program.

3. The department shall structure [the] **any** contract such that payment will be based on delivering the services described in this section as well as performance to guarantee the greatest possible effectiveness of the program.

4. Because of the important nature of this program to the health and welfare of Missourians, this section shall become effective on July 1, 2006. The department shall make every reasonable effort to ensure that the [guard] **hero** at home program is serving families by August 1, 2006.

5. The department shall prepare a report on the operations and progress of the program to be delivered to the speaker of the house of representatives and the president pro tem of the senate no later than January 1, 2007.

Approved June 11, 2008

HB 1690 [SCS HCS HB 1690]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the Director of the Department of Insurance, Financial Institutions, and Professional Registration to establish rules for submitting required insurance-related filings

AN ACT to repeal section 379.118, RSMo, and to enact in lieu thereof three new sections relating to the transmission of insurance-related information in specific formats.

SECTION

- A. Enacting clause.
- 374.056. Rulemaking authority, delivery methods.
- 374.057. Filing of records and signatures authorized when in compliance with federal law.
- 379.118. Notice of cancellation and renewals, due when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 379.118, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 374.056, 374.057, and 379.118, to read as follows:

374.056. RULEMAKING AUTHORITY, DELIVERY METHODS. — Except as limited by section 375.922, RSMo, the director may promulgate rules establishing the specific type of delivery method for submissions of rate and form filings, rules, license applications, including materials requested in the course of a financial or market conduct examination, which are required to be submitted to the department under state law. Types of delivery methods shall be web-based interface systems such as the System for Electronic Rate Form Filing (SERFF), the National Insurance Producer Registry (NIPR), and the National Association of Insurance Commissioners' Internet-State Interface Technology Enhancement (I-SITE). Such rules may only apply to insurance companies, producers, health maintenance organizations, and any other person or entity regulated by the department under this chapter, and chapters 287, 325, 354, and 375 to 385, RSMo, or a rule adopted thereunder. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

374.057. FILING OF RECORDS AND SIGNATURES AUTHORIZED WHEN IN COMPLIANCE WITH FEDERAL LAW. — The filing of records and signatures is authorized, when specified under this chapter, or chapters 287, 325, 354, and 375 to 385, RSMo, or a rule adopted

thereunder, when carried out in a manner consistent with Section 104(a) of the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7004(a). This section modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, but does not modify, limit, or supersede Section 101(c) of the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001(c), or authorize the electronic delivery of any of the notices described in Section 103(b) of the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7003(b).

379.118. NOTICE OF CANCELLATION AND RENEWALS, DUE WHEN. — 1. If any insurer proposes to cancel or to refuse to renew a policy of automobile insurance delivered or issued for delivery in this state except at the request of the named insured or for nonpayment of premium, it shall, on or before thirty days prior to the proposed effective date of the action, send written notice by certificate of mailing of its intended action to the named insured at his last known address. The notice shall state:

- (1) The proposed action to be taken;
- (2) The proposed effective date of the action;
- (3) The insurer's actual reason for proposing to take such action, the statement of reason to be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morals", or "violation or accident record" shall not suffice to meet the requirements of this subdivision;
- (4) That the insured may be eligible for insurance through the assigned risk plan if his insurance is to be canceled.

2. An insurer shall send an insured written notice of an automobile policy renewal at least fifteen days prior to the effective date of the new policy. The notice shall be sent by first class mail **or may be sent electronically if requested by the policyholder**, and shall contain the insured's name, the vehicle covered, the total premium amount, and the effective date of the new policy. **Any request for electronic delivery of renewal notices shall be designated on the application form signed by the applicant, made in writing by the policyholder, or made in accordance with sections 432.200 to 432.295, RSMo. The insurer shall comply with any subsequent request by a policyholder to rescind authorization for electronic delivery and to elect to receive renewal notices by first class mail. Any delivery of a renewal notice by electronic means shall not constitute notice of cancellation of a policy even if such notice is included with the renewal notice.**

Approved June 19, 2008

HB 1710 [HB 1710]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding disability benefits for the Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City

AN ACT to repeal sections 86.1180, 86.1200, and 86.1560, RSMo, and section 86.1230 as enacted by senate bill no. 172, ninety-fourth general assembly, first regular session, and section 86.1230 as enacted by conference committee substitute no. 2 for house committee

substitute no. 2 for senate bill no. 406, ninety-fourth general assembly, first regular session, and to enact in lieu thereof four new sections relating to police retirement.

SECTION

- A. Enacting clause.
- 86.1180. Permanent disability caused by performance of duty, retirement by board of police commissioners permitted — base pension amount — certification of disability.
- 86.1200. Permanent disability not caused by performance of duty, ten years of creditable service, retirement permitted — base pension amount — certification of disability.
- 86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
- 86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
- 86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.1180, 86.1200, and 86.1560, RSMo, and section 86.1230 as enacted by senate bill no. 172, ninety-fourth general assembly, first regular session, and section 86.1230 as enacted by conference committee substitute no. 2 for house committee substitute no. 2 for senate bill no. 406, ninety-fourth general assembly, first regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 86.1180, 86.1200, 86.1230, and 86.1560, to read as follows:

86.1180. PERMANENT DISABILITY CAUSED BY PERFORMANCE OF DUTY, RETIREMENT BY BOARD OF POLICE COMMISSIONERS PERMITTED — BASE PENSION AMOUNT — CERTIFICATION OF DISABILITY. — 1. Any member **in active service** who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate, and exclusive result of an accident occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to seventy-five percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.1190 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is restored to active service, such member shall contribute to this retirement system thereafter at the same rate as other members. Upon subsequent retirement, such member shall be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such member shall be entitled to the retirement benefit to which such member would have been entitled if such member had terminated service at the time of such cessation of the disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

86.1200. PERMANENT DISABILITY NOT CAUSED BY PERFORMANCE OF DUTY, TEN YEARS OF CREDITABLE SERVICE, RETIREMENT PERMITTED — BASE PENSION AMOUNT — CERTIFICATION OF DISABILITY. — 1. Any member **in active service** who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to two and one-half percent of final compensation multiplied by the number of years of creditable service. Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

3. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board. If any nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination, his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs in the report, then such beneficiary's nonduty disability pension shall cease.

[86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this

subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a special consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2008, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.]

86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained

as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such

member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit or compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED. — 1. A member **in active service** who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

- (1) Duty disability, fifty percent of final compensation as of the date of disability;
- (2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;

(3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3. For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

(1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;

(2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;

(3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

4. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

5. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

Approved June 17, 2008

HB 1715 [SCS HCS HB 1715]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding watercraft

AN ACT to repeal sections 304.157, 306.010, 306.015, 306.030, 306.100, 306.111, 306.112, 306.114, 306.117, 306.124, 306.125, 306.132, 306.147, 306.163, 306.190, 306.221, 306.228, 565.024, 565.082, 577.023, and 577.080, RSMo, and to enact in lieu thereof twenty-two new sections relating to watercraft, with penalty provisions and an emergency clause for a certain section.

SECTION

A. Enacting clause.

304.157. Vehicles left unattended or improperly parked on private property of another, procedure for removal and disposition — violation of certain required procedure, penalty.

- 306.010. Definitions.
- 306.015. Vessels, registration, procedure, fee — delinquent application, penalty fee — failure to obtain certificate of title, effect of.
- 306.030. Certificate of number, application, procedure, contents, fee — numbers, how attached — numbers from federal or other state governments, reciprocity — renewal of certificate, when, how — personal property tax statement and proof of payment required — deposit and use of fees.
- 306.100. Classification of vessels — equipment requirements.
- 306.111. Negligent operation of a vessel, penalty — operating a vessel while intoxicated, penalty — involuntary manslaughter with a vessel, penalty — assault with a vessel, penalty — intoxicated condition defined.
- 306.112. Operating vessel with excessive blood alcohol content — penalty.
- 306.114. Grant of suspended imposition of sentence, requirements — validity of chemical tests — restrictions upon withdrawal of blood, procedure, no civil liability.
- 306.117. Admissibility of results of chemical tests — presumption of intoxication.
- 306.118. Aggravated, chronic, persistent, and prior offenders — enhanced penalties — procedures.
- 306.124. Aids to navigation and regulatory markers defined — water patrol may mark waters, hearing, notice — markings, effect of — disaster, closing of certain waters — violation, penalty.
- 306.125. Operation of watercraft, how — restricted areas, certain vessels, speed allowed — exceptions — penalty.
- 306.132. Watercraft to stop on signal of water patrol or emergency watercraft, when — authorized speed near emergency watercraft — penalty.
- 306.147. Muffler, defined — noise level regulation, muffler system required, certification of manufacturer — exceptions — on-site test to measure noise levels, penalty — application of section.
- 306.163. Commissioner of water patrol, appointment, oath, duties — granted powers of a peace officer, when — lieutenant colonel to assume the duties of the commissioner, when.
- 306.190. Applicability of regulations — local regulations — special local rules prohibited.
- 306.221. Position of vessel or person may not obstruct or impede traffic — penalty.
- 306.228. Authorized personnel appointments by the commissioner — national emergency, personnel called in to military service — discrimination prohibited.
- 565.024. Involuntary manslaughter, penalty.
- 565.082. Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree, definition, penalty.
- 577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
- 577.080. Abandoning motor vehicle — last owner of record deemed the owner of abandoned motor vehicle, procedures — penalty — civil liability.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 304.157, 306.010, 306.015, 306.030, 306.100, 306.111, 306.112, 306.114, 306.117, 306.124, 306.125, 306.132, 306.147, 306.163, 306.190, 306.221, 306.228, 565.024, 565.082, 577.023, and 577.080, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 304.157, 306.010, 306.015, 306.030, 306.100, 306.111, 306.112, 306.114, 306.117, 306.118, 306.124, 306.125, 306.132, 306.147, 306.163, 306.190, 306.221, 306.228, 565.024, 565.082, 577.023, and 577.080, to read as follows:

304.157. VEHICLES LEFT UNATTENDED OR IMPROPERLY PARKED ON PRIVATE PROPERTY OF ANOTHER, PROCEDURE FOR REMOVAL AND DISPOSITION — VIOLATION OF CERTAIN REQUIRED PROCEDURE, PENALTY. — 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

- (1) The abandoned property is left unattended for more than forty-eight hours; or
- (2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

2. A local government agency may also provide for the towing of motor vehicles **or vessels** from real property under the authority of any local ordinance providing for the towing of vehicles

or vessels which are derelict, junk, scrapped, disassembled or otherwise harmful to the public health under the terms of the ordinance. Any local government agency authorizing a tow under this subsection shall report the tow to the local law enforcement agency within two hours with a crime inquiry and inspection report pursuant to section 304.155.

3. Neither the law enforcement officer, local government agency nor anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

4. The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four-hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;

(2) The abandoned property is left unattended on owner-occupied residential property with four residential units or less, and the owner, lessee or agent of the real property in lawful possession has notified the appropriate law enforcement agency, and ten hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ninety-six hours have elapsed since that notification.

5. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the director of revenue and shall contain the following:

(1) The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

(3) The license plate or registration number and the state of issuance, if available;

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;

(7) The towing company's name and address;

(8) The signature of the towing operator;

(9) The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements

on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;

(10) Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the law enforcement official receiving the report; and

(11) Any additional information the director of revenue deems appropriate.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection 4 of this section shall deliver a copy of the abandoned property report to the local law enforcement agency having jurisdiction over the location from which the abandoned property was towed. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the law enforcement agency receiving the report has the technological capability of receiving such copy and has registered the towing company for such purpose. The registration requirements shall not apply to law enforcement agencies located in counties of the third or fourth classification. The report shall be delivered within two hours if the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of this section, otherwise the report shall be delivered within twenty-four hours.

7. The law enforcement agency receiving such abandoned property report must record the date on which the abandoned property report is filed with such agency and shall promptly make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide law enforcement computer system, and an officer shall sign the abandoned property report and provide the towing company with a signed copy. The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

8. The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall search the records of the department of revenue and provide the towing company with the latest owner and lienholder information, **if available**, on the abandoned property, and if the tower has online access to the department of revenue's records, the tower shall comply with the requirements of section 301.155, RSMo. If the abandoned property is not claimed within ten working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the department of revenue.

9. If any owner or lessee of real property knowingly authorizes the removal of abandoned property in violation of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.

306.010. DEFINITIONS.— As used in this chapter the following terms mean:

(1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is a principal source of propulsion;

(2) "Operate", to navigate or otherwise use a motorboat or a vessel;

(3) "Operator", the person who operates or has charge of the navigation or use of a vessel;

(4) "Owner", a person other than a lienholder, having the property in or title to a motorboat.

The term includes a person entitled to the use or possession of a motorboat subject to an interest of another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(5) "Parasailing", the towing of any person equipped with a parachute or kite equipment by any watercraft operating on the waters of this state;

(6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length, propelled by machinery which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel;

(7) "Skiing", any activity that involves a person or persons being towed by a vessel, including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and tubing;

(8) "Vessel", every motorboat and every description of motorized watercraft, and any watercraft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, used or capable of being used as a means of transportation on water, but not any watercraft having as the only means of propulsion a paddle or oars;

[(8)] (9) "Watercraft", any boat or craft, including a vessel, used or capable of being used as a means of transport on waters;

[(9)] (10) "Waters of this state", any waters within the territorial limits of this state and lakes constructed or maintained by the United States Army Corps of Engineers except bodies of water owned by a person, corporation, association, partnership, municipality or other political subdivision, public water supply impoundments, and except drainage ditches constructed by a drainage district, but the term does include any body of water which has been leased to or owned by the state department of conservation.

306.015. VESSELS, REGISTRATION, PROCEDURE, FEE — DELINQUENT APPLICATION, PENALTY FEE — FAILURE TO OBTAIN CERTIFICATE OF TITLE, EFFECT OF. — 1. The owner of a vessel kept within this state shall cause it to be registered in the office of the director of revenue who shall issue a certificate of title for the same.

2. The owner of any vessel acquired or brought into the state shall file his application for title within sixty days after it is acquired or brought into this state. The director of revenue may grant extensions of time for titling to any person in deserving cases.

3. The fee for the certificate of title shall be seven dollars fifty cents and shall be paid to the director of revenue at the time of making application. If application for certificate of title is not made within sixty days after the vessel is acquired or brought into the state, a delinquency penalty fee of ten dollars for each thirty days of delinquency, not to exceed a total of thirty dollars, shall be imposed. If the director of revenue learns that any person has failed to make application for certificate of title within sixty days after acquiring or bringing into the state a vessel or has sold a vessel without obtaining a certificate of title, he shall cancel the registration of all motorboats, vessels, and watercraft registered in the name of the person, either as sole owner or as co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section together with all fees, charges, and payments which he should have paid in connection with the certificate of title of the vessel.

4. In the event of a sale or transfer of ownership of a vessel or outboard motor for which a certificate of ownership or manufacturer's statement of origin has been issued, the holder of such certificate shall endorse on the same an assignment thereof, with warranty of title in form printed thereon, and prescribed by the director of revenue, with a statement of all liens or encumbrances on such vessel or outboard motor, and deliver the same to the buyer at the time of delivery to the buyer of such vessel or outboard motor; provided that, when the transfer of a vessel or outboard motor occurs within a corporation which holds a license to operate as a motor vehicle or boat dealer under sections 301.550 to 301.573, RSMo, and this section, the provisions of subdivision (3) of subsection 6 of section 144.070, RSMo, shall not apply.

306.030. CERTIFICATE OF NUMBER, APPLICATION, PROCEDURE, CONTENTS, FEE — NUMBERS, HOW ATTACHED — NUMBERS FROM FEDERAL OR OTHER STATE GOVERNMENTS, RECIPROCITY — RENEWAL OF CERTIFICATE, WHEN, HOW — PERSONAL PROPERTY TAX STATEMENT AND PROOF OF PAYMENT REQUIRED — DEPOSIT AND USE OF FEES. — 1. The owner of each vessel requiring numbering by this state shall file an application for number with the department of revenue on forms provided by it. The application shall contain a full description of the vessel, factory number or serial number, together with a statement of the

applicant's source of title and of any liens or encumbrances on the vessel. For good cause shown the director of revenue may extend the period of time for making such application. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and, if satisfied that the applicant is the lawful owner of such vessel, or otherwise entitled to have the same registered in his or her name, shall thereupon issue an appropriate certificate of title over the director's signature and sealed with the seal of the director's office, procured and used for such purpose, and a certificate of number stating the number awarded to the vessel. The application shall include a provision stating that the applicant will consent to any inspection necessary to determine compliance with the provisions of this chapter and shall be signed by the owner of the vessel and shall be accompanied by the fee specified in subsection 10 of this section. The owner shall paint on or attach to each side of the bow of the vessel the identification number in a manner as may be prescribed by rules and regulations of the division of water safety in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever the vessel is in operation. The operator of a vessel in which such certificate of number is not available for inspection by the state water patrol or, if the operator cannot be determined, the person who is the registered owner of the vessel shall be subject to the penalties provided in section 306.210. Vessels owned by the state or a political subdivision shall be registered but no fee shall be assessed for such registration.

2. Each new vessel sold in this state after January 1, 1970, shall have die stamped on or within three feet of the transom or stern a factory number or serial number.

3. The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the vessel on the waters of this state in excess of the sixty-day reciprocity period provided for in section 306.080. The recordation and payment of registration fee shall be in the manner and pursuant to the procedure required for the award of a number under subsection 1 of this section. No additional or substitute number shall be issued unless the number is a duplicate of an existing Missouri number.

4. In the event that an agency of the United States government shall have in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this chapter by the department of revenue shall be in conformity therewith.

5. All records of the department of revenue made and kept pursuant to this section shall be public records.

6. Every certificate of number awarded pursuant to this chapter shall continue in force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this chapter. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same or in accordance with the provisions of sections 306.010 to 306.030.

7. The department of revenue shall fix the days and months of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this chapter and may stagger such dates in order to distribute the workload.

8. When applying for or renewing a vessel's certificate of number, the owner shall submit a paid personal property tax receipt for the tax year which immediately precedes the year in which the application is made or the year in which the renewal is due and which reflects that the vessel being renewed is listed as personal property and that all personal property taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township in which the owner's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due.

9. When applying for or renewing a certificate of registration for a vessel documented with the United States Coast Guard under section 306.016, owners of vessels shall submit a paid personal property tax receipt for the tax year which immediately precedes the year in which the application is made or the renewal is due and which reflects that the vessel is listed as personal property and that all personal property taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township in which the owner's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due.

10. The fee to accompany each application for a certificate of number is:

For vessels under 16 feet in length.....	\$25.00
For vessels at least 16 feet in length but less than 26 feet in length.....	\$55.00
For vessels at least 26 feet in length but less than 40 feet in length.....	\$100.00
For vessels at least 40 feet and over.	\$150.00.

11. The certificate of title and certificate of number issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection.

12. The first two million dollars collected annually under the provisions of this section shall be deposited into the state general revenue fund. All fees collected under the provisions of this section in excess of two million dollars annually shall be deposited in the Missouri state water patrol fund and shall be used exclusively for the Missouri state water patrol.

13. Notwithstanding the provisions of subsection 10 of this section, vessels at least 16 feet in length but less than 28 feet in length, that are homemade, constructed out of wood, and have a beam of 5 feet or less, shall pay a fee of \$55.00 which shall accompany each application for a certification number.

306.100. CLASSIFICATION OF VESSELS — EQUIPMENT REQUIREMENTS. — 1. For the purpose of this section, vessels shall be divided into four classes as follows:

- (1) Class A, less than sixteen feet in length;
- (2) Class 1, at least sixteen and less than twenty-six feet in length;
- (3) Class 2, at least twenty-six and less than forty feet in length;
- (4) Class 3, forty feet and over.

2. All vessels shall display from sunset to sunrise the following lights when under way, and during such time no other lights [which may be mistaken for those prescribed], **continuous spotlights or docking lights, or other nonprescribed lights** shall be exhibited:

- (1) Vessels of classes A and 1:

- (a) A bright white light aft to show all around the horizon;

- (b) A combined light in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on their respective sides.

- (2) Vessels of classes 2 and 3:

- (a) A bright white light in the forepart of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of twenty points (225 degrees) of the compass, so fixed as to throw the light ten points (112 1/2 degrees) on each side of the vessel; namely, from right ahead to two points (22 1/2 degrees) abaft the beam on either side;

- (b) A bright white light aft to show all around the horizon and higher than the white light forward;

- (c) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points (112 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on the starboard side; on the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points (112 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two

points (22 1/2 degrees) abaft the beam on the portside. The side lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow.

(3) Vessels of classes A and 1 when propelled by sail alone shall exhibit the combined light prescribed by this section and a twelve point (135 degree) white light aft. Vessels of classes 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened, prescribed by this section and a twelve point (135 degree) white light aft.

(4) All vessels between the hours of sunset and sunrise that are not under way, moored at permanent dockage or attached to an immovable object on shore so that they do not extend more than fifty feet from the shore shall display one three-hundred-sixty-degree white light visible three hundred sixty degrees around the horizon.

(5) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(6) When propelled by sail and machinery every vessel shall carry the lights required by this section for a motorboat propelled by machinery only.

3. Any watercraft not defined as a vessel shall, from sunset to sunrise, carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

4. Any vessel may carry and exhibit the lights required by the federal regulations for preventing collisions at sea, in lieu of the lights required by subsection 2 of this section.

5. All other watercraft over sixty-five feet in length and those propelled solely by wind effect on the sail shall display lights prescribed by federal regulations.

6. Any watercraft used by a person engaged in the act of sport fishing is not required to display any lights required by this section if no other vessel is within the immediate vicinity of the first vessel, the vessel is using an electric trolling motor and the vessel is within fifty feet of the shore.

7. Every vessel, except those in class A, shall have on board at least one wearable personal flotation device of type I, II or III for each person on board and each person being towed who is not wearing one. Every such vessel shall also have on board at least one type IV throwable personal flotation device.

8. All class A motorboats and all watercraft traveling on the waters of this state shall have on board at least one type I, II, III or IV personal flotation device for each person on board and each person being towed who is not wearing one.

9. All lifesaving devices required by subsections 7 and 8 of this section shall be United States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

10. Every vessel which is carrying or using flammable or toxic fluid in any enclosure for any purpose, and which is not an entirely open vessel, shall have an efficient natural or mechanical ventilation system which must be capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

11. Motorboats shall carry on board at least the following United States Coast Guard approved fire extinguishers:

(1) Every class A and every class 1 motorboat carrying or using gasoline or any other flammable or toxic fluid, one B1 type fire extinguisher;

(2) Every class 2 motorboat, one B2 or two B1 type fire extinguishers;

(3) Every class 3 motorboat:

(a) Three B1 type fire extinguishers; or

(b) One B2 type and one B1 type fire extinguisher; or

(c) A fixed fire extinguishing system and one B2 type fire extinguisher; or

(d) A fixed fire extinguishing system and two B1 type fire extinguishers.

12. All class 1 and 2 motorboats and vessels shall have a sounding device. All class 3 motorboats and vessels shall have at least a sounding device and one bell.

13. No person shall operate any watercraft which is not equipped as required by this section.

14. A Missouri state water patrol officer may direct the operator of any watercraft being operated without sufficient personal flotation devices, fire-fighting devices or in an overloaded or other unsafe condition or manner to take whatever immediate and reasonable steps are necessary for the safety of those aboard when, in the judgment of the officer, such operation creates a hazardous condition. The officer may direct the operator to return the watercraft to the nearest safe mooring and to remain there until the situation creating the hazardous condition is corrected.

15. A Missouri state water patrol officer may remove any unmanned or unattended watercraft from the water when, in the judgment of the officer, the watercraft creates a hazardous condition.

16. Nothing in this section shall prohibit the use of additional specialized lighting used in the act of sport fishing.

306.111. NEGLIGENCE OPERATION OF A VESSEL, PENALTY — OPERATING A VESSEL WHILE INTOXICATED, PENALTY — INVOLUNTARY MANSLAUGHTER WITH A VESSEL, PENALTY — ASSAULT WITH A VESSEL, PENALTY — INTOXICATED CONDITION DEFINED. —

1. A person commits the crime of negligent operation of a vessel if when operating a vessel [on the Mississippi River, Missouri River or the lakes this state] he **or she** acts with criminal negligence, as defined in subsection 5 of section 562.016, RSMo, to cause physical injury to any other person or damage to the property of any other person. A person convicted of negligent operation of a vessel is guilty of a class B misdemeanor upon conviction for the first violation, guilty of a class A misdemeanor upon conviction for the second violation, and guilty of a class D felony for conviction for the third and subsequent violations.

2. A person commits the crime of operating a vessel while intoxicated if he **or she** operates a vessel on the Mississippi River, Missouri River or the lakes of this state while in an intoxicated condition. [A person convicted of] Operating a vessel while intoxicated is [guilty of] a class B misdemeanor [upon conviction for the first violation, guilty of a class A misdemeanor upon conviction for the second violation, and guilty of a class D felony for conviction for the third and subsequent violations].

3. A person commits the crime of involuntary manslaughter with a vessel if, while in an intoxicated condition, he **or she** operates any vessel [on the Mississippi River, Missouri River or the lakes of this state] and, when so operating, acts with criminal negligence to cause the death of any person. Involuntary manslaughter with a vessel is a class C felony.

4. A person commits the crime of assault with a vessel in the second degree if, while in an intoxicated condition, he **or she** operates any vessel [on the Mississippi River, Missouri River or the lakes of this state] and, when so operating, acts with criminal negligence to cause physical injury to any other person. Assault with a vessel in the second degree is a class D felony.

5. For purposes of this section, a person is in an intoxicated condition when he **or she** is under the influence of alcohol, a controlled substance or drug, or any combination thereof.

306.112. OPERATING VESSEL WITH EXCESSIVE BLOOD ALCOHOL CONTENT — PENALTY. — 1. A person commits the crime of operating a vessel with excessive blood alcohol content if such person operates a vessel on the Mississippi River, Missouri River or the lakes of this state with [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in such person's blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis of the person's blood, breath, urine, or saliva.

3. [Any person convicted of] Operating a vessel with excessive blood alcohol content is [guilty of] a class B misdemeanor [upon conviction for the first violation, guilty of a class A

misdemeanor upon conviction for the second violation, and guilty of a class D felony for conviction for the third and subsequent violations].

306.114. GRANT OF SUSPENDED IMPOSITION OF SENTENCE, REQUIREMENTS — VALIDITY OF CHEMICAL TESTS — RESTRICTIONS UPON WITHDRAWAL OF BLOOD, PROCEDURE, NO CIVIL LIABILITY. — 1. No person convicted of or pleading guilty to a violation of section 306.111 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on probation for a minimum of two years and a record of the conviction or plea of guilty is entered into the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol.

2. Chemical tests of a person's blood, breath, urine, or saliva to be considered valid under the provisions of sections 306.111 to 306.119 shall be performed according to methods and devices approved by the department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the department of health and senior services for this purpose. In addition, any state, county, or municipal law enforcement officer who is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a portable chemical test to any person suspected of operating any vessel in violation of section 306.111 or 306.112. A portable chemical test shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this section.

3. The department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections 306.111 to 306.119, and shall establish standards as to the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination, suspension or revocation by the department of health and senior services.

4. A licensed physician, registered nurse, or trained medical technician, acting at the request and direction of a law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless the medical personnel, in the exercise of good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test or a urine or saliva specimen. In withdrawing blood for the purpose of determining the alcohol content in the blood, only a previously unused and sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict accord with accepted medical practices. [A nonalcoholic antiseptic shall be used for cleansing the skin prior to a venapuncture.] Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to such person.

5. No person who administers any test pursuant to the provisions of sections 306.111 to 306.119 upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any way associated shall be civilly liable for damages to the person tested, except for negligence in administering of the test or for willful and wanton acts or omissions.

6. Any person who is dead, unconscious or who is otherwise in a condition rendering such person incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall be deemed not to have withdrawn the consent provided by section 306.116 and the test or tests may be administered.

306.117. ADMISSIBILITY OF RESULTS OF CHEMICAL TESTS — PRESUMPTION OF INTOXICATION. — 1. Upon the trial of any person for violation of any of the provisions of section 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, urine, or saliva

is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of alcohol in a person's blood shall be given the following effect:

(1) If there was five-hundredths of one percent or less by weight of alcohol in such person's blood, it shall be presumed that the person was not intoxicated at the time the specimen was obtained;

(2) If there was in excess of five-hundredths of one percent but less than [ten-hundredths] **eight-hundredths** of one percent by weight of alcohol in such person's blood, the fact shall not give rise to any presumption that the person was or was not intoxicated, but the fact may be considered with other competent evidence in determining whether the person was intoxicated;

(3) If there was [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood.

3. A chemical analysis of a person's breath, blood, urine, or saliva, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 306.111 to 306.119 and in accordance with methods and standards approved by the department of health and senior services.

4. The provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated or under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol.

306.118. AGGRAVATED, CHRONIC, PERSISTENT, AND PRIOR OFFENDERS — ENHANCED PENALTIES — PROCEDURES. — 1. For purposes of this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Aggravated offender", a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related boating offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related boating offenses and any of the following: involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111, or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(2) "Chronic offender":

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related boating offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related boating offenses and any of the following: involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(3) "Intoxication-related boating offense", operating a vessel while intoxicated under subsection 2 of section 306.111; operating a vessel with excessive blood alcohol content under section 306.112; involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111; any

violation of subsection 2 of section 306.110; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(4) "Persistent offender", one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related boating offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter under subsection 3 of section 306.111, assault in the second degree under subsection 4 of section 306.111, assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(5) "Prior offender", a person who has pleaded guilty to or has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section, nor sentence such person to pay a fine in lieu of a term of imprisonment, notwithstanding the provisions of section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

306.124. AIDS TO NAVIGATION AND REGULATORY MARKERS DEFINED — WATER PATROL MAY MARK WATERS, HEARING, NOTICE — MARKINGS, EFFECT OF — DISASTER, CLOSING OF CERTAIN WATERS — VIOLATION, PENALTY. — 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(2) "Regulatory markers" means any anchored or fixed markers in or on the water or signs on the shore or on bridges over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep-out areas, and mooring buoys.

2. The Missouri state water patrol after a public hearing pursuant to notice thereof published not less than ten days prior thereto in each county to be affected may provide for the uniform marking of the water areas in this state through the placement of aids to navigation and regulatory markers. The Missouri state water patrol shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard. No city, county, or person shall mark or obstruct the water of this state in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the state water patrol.

3. Whenever, due to any actual or imminent man-made or natural disaster, the navigation or use of any waters of this state presents an unreasonable danger to persons or property, the Missouri state water patrol may, with the consent of the director of the department of public safety, close such waters [by the placement of regulatory markers].

4. The operation of any watercraft within prohibited areas that are marked shall be prima facie evidence of negligent operation.

5. It shall be unlawful for any person to operate a watercraft on the waters of this state in a manner other than that prescribed or permitted by regulatory markers.

6. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove, obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to sections 306.010 to 306.126.

306.125. OPERATION OF WATERCRAFT, HOW — RESTRICTED AREAS, CERTAIN VESSELS, SPEED ALLOWED — EXCEPTIONS — PENALTY. — 1. Every person shall operate a motorboat, vessel or watercraft in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person and shall exercise the highest degree of care.

2. No person shall operate a motorboat, vessel or watercraft at any time from a half-hour after sunset until an hour before sunrise the following day at a speed exceeding thirty miles per hour. [This subsection shall only apply to the waters of the Mississippi River, the waters of the Missouri River, and lakes with an aggregate shoreline in excess of one hundred sixty miles.]

3. Vessels shall not be operated within one hundred feet of any dock, pier, occupied anchored boat or buoyed restricted area on any lake at a speed in excess of slow-no wake speed.

4. Subsection 1 of this section shall not apply to a motorboat or other boat race authorized under section 306.130.

306.132. WATERCRAFT TO STOP ON SIGNAL OF WATER PATROL OR EMERGENCY WATERCRAFT, WHEN — AUTHORIZED SPEED NEAR EMERGENCY WATERCRAFT — PENALTY. — 1. Any person operating a watercraft on the waters of this state shall stop such watercraft upon a signal of any member of the Missouri state water patrol and obey any other reasonable signal or direction of such member of the Missouri state water patrol given in directing the movement of traffic on the waters of this state.

2. Any person operating a watercraft upon the waters of this state shall immediately stop or position such watercraft in such a way as to give the right-of-way on the water to any emergency watercraft, as established by the Missouri state water patrol, when such emergency watercraft gives an audible signal by siren or gives a visible signal by having at least one lighted lamp exhibiting a red or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such emergency watercraft.

3. Vessels shall not be operated at a speed in excess of slow no-wake speed within one hundred feet of any emergency vessel that has red or blue lighting displayed.

4. Any person who violates the provisions of this section is guilty of a class C misdemeanor.

306.147. MUFFLER, DEFINED — NOISE LEVEL REGULATION, MUFFLER SYSTEM REQUIRED, CERTIFICATION OF MANUFACTURER — EXCEPTIONS — ON-SITE TEST TO MEASURE NOISE LEVELS, PENALTY — APPLICATION OF SECTION. — 1. As used in this section, the term "muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

2. Effective January 1, 1996, a person shall not manufacture, sell or offer for sale or operate in this state any motorboat manufactured after that date that exceeds the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. All motorboats manufactured prior to January 1, 1996, shall not exceed eighty-six decibels on an A-weighted scale when subjected to a sound level test as prescribed by SAE J34 when measured from a distance of fifty or more feet from the motorboat.

3. No person shall remove, alter or otherwise modify in any way a muffler or muffler system in a manner which will prevent it from being operated in accordance with this section. Nothing in this section shall preclude a person from removing, altering or modifying a muffler or muffler system so long as the muffler or muffler system continues to comply with subsection 2 of this section. This section shall not be construed so as to prohibit the use of any exhaust system or device, including but not limited to those not discharging water with exhaust gases, so long as the device or system is in compliance with subsection 2 of this section.

4. No motorboat shall be equipped with any electrical or mechanical device or switch that when manipulated in any manner would allow the muffler or exhaust system to emit a noise level that exceeds the maximums in subsection 2 of this section.

5. Effective January 1, 1996, a person shall not manufacture, nor shall any person sell or offer for sale any motorboat which is manufactured after January 1, 1996, which is equipped with a muffler or muffler system which does not comply with this section. The subsection shall not apply to power vessels designed, manufactured and sold for the sole purpose of competing

in racing events and for no other purpose. Any such exemption or exception shall be documented in every sale agreement and shall be formally acknowledged by signature on the part of both the buyer and the seller. Copies of such agreement shall be maintained by both parties. A copy of such agreement shall be kept on board whenever the motorboat is operated. Any motorboat sold under this exemption may only be operated on the waters of this state in accordance with subsection 7 of this section.

6. As of January 1, 1996, every manufacturer which delivers a new motorboat for sale in this state shall certify, if the purchaser or dealer makes a request in writing, that the decibel level of the motorboat engine, muffler and exhaust system, as delivered to any licensed dealer in this state, does not exceed the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. Such certificate of decibel level from the manufacturer shall be given by the dealer to the purchaser of the new motorboat if the motorboat is sold for use upon the waters of this state. The purchaser shall sign a statement acknowledging receipt of the certificate of decibel level which shall be supplied by the dealer. The dealer shall represent by affidavit whether or not the engine or muffler system of the new motorboat being sold has been altered or modified in any way.

7. The provisions of this section shall not apply to motorboats registered and actually participating in a racing event or tune-up periods for such racing events or to a motorboat being operated by a boat or engine manufacturer for the purpose of testing or development. The operator of any motorboat operated upon the waters of this state for the purpose of a tune-up for a sanctioned race or for testing or development by a boat or engine manufacturer shall at all times have in such operator's possession and produce on demand by a law enforcement officer a test permit issued by the state water patrol. For the purpose of races or racing events, such race shall only be sanctioned when conducted in accordance with and approved by the United States Coast Guard or this state.

8. Any officer authorized to enforce the provisions of this section who has probable cause to believe that a motorboat is not in compliance with the noise levels established in this section may direct the operator of such motorboat to submit the motorboat to an on-site test to measure noise levels, with the officer on board if such officer chooses, and the operator shall comply with such request. The owner of any motorboat which violates any provision of this section shall have sixty days from the date of the violation to bring the motorboat into compliance with the provisions of this section. Thereafter, it shall be the owner's responsibility to have the motorboat tested by the state water patrol. If the motorboat fails the state water patrol test, the owner shall immediately moor the motorboat and shall keep the motorboat moored until the state water patrol certifies that the motorboat is in compliance with the provisions of this section. Any person who fails to comply with a request or direction of an officer made pursuant to this subsection is guilty of a class C misdemeanor. Nothing in this subsection shall be construed to limit the officer's ability to enforce this section and to issue citations to the owner or operator of any motorboat during the sixty-day compliance period.

9. Any officer who conducts motorboat sound level tests as provided in this section shall be qualified in motorboat noise testing by the department of public safety. Such qualifications shall include but may not be limited to the selection of the measurement site, and the calibration and use of noise testing equipment in accordance with the testing procedure prescribed by SAE J2005 and SAE J34.

10. Unless otherwise indicated, any person who knowingly violates this section is guilty of an infraction for a first offense with a penalty not to exceed one hundred dollars, is guilty of an infraction for a second offense with a penalty not to exceed two hundred dollars, and is guilty of an infraction for a third or subsequent offense with a penalty not to exceed three hundred dollars.

11. [This section shall only apply to the waters of the Mississippi River, the waters of the Missouri River, and lakes with an aggregate shoreline in excess of one hundred sixty miles.] This section shall not apply to motorboats not intended for use in this state.

306.163. COMMISSIONER OF WATER PATROL, APPOINTMENT, OATH, DUTIES — GRANTED POWERS OF A PEACE OFFICER, WHEN — LIEUTENANT COLONEL TO ASSUME THE DUTIES OF THE COMMISSIONER, WHEN. — 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of the Missouri state water patrol to serve at the pleasure of the governor. The commissioner shall take and subscribe an oath of office to perform the commissioner's duties faithfully and impartially. **The commissioner appointed by the governor shall have at least ten years of experience in law enforcement similar to the duties exercised by uniformed officers of the state water patrol or at least five years of experience as a uniformed officer of the state water patrol.**

2. The commissioner shall prescribe rules for instruction and discipline and make administrative rules and regulations and fix the hours of duty for the members of the patrol. The commissioner shall have charge of the office of the patrol, shall be custodian of the records of the patrol, and shall direct the day-to-day activities of the officers, patrolmen and office personnel.

3. The commissioner shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting him or her all the powers of a peace officer to enforce all the laws of this state within the jurisdiction of the water patrol as listed in section 306.165, provided that he has completed a law enforcement training course which meets the standards established in chapter 590, RSMo.

4. In the absence, or upon the disability, of the commissioner, or at the time the commissioner designates, the lieutenant colonel shall assume the duties of the commissioner. In case of the disability of the commissioner and the lieutenant colonel, the governor may designate a major as acting commissioner and when so designated, the acting commissioner shall have all the powers and duties of the commissioner.

306.190. APPLICABILITY OF REGULATIONS — LOCAL REGULATIONS — SPECIAL LOCAL RULES PROHIBITED. — 1. The provisions of this chapter and of other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any watercraft shall be operated on the waters of this state, or when any activity regulated by this chapter shall take place thereon; but nothing in this chapter shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of watercraft the provisions of which are identical to the provisions of this chapter, amendments thereto or regulations issued thereunder; except that the ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this chapter, amendments thereto or regulations issued thereunder.

2. Any city or subdivision of this state may adopt special rules and regulations with reference to the operation of watercraft on any waters owned by the city or political subdivision.

3. The provisions of this chapter shall not apply to farm ponds not commercially operated for boating purposes.

4. No city or political subdivision of this state shall adopt special rules and regulations with reference to restricting the operation of personal watercraft on waters of this state.

306.221. POSITION OF VESSEL OR PERSON MAY NOT OBSTRUCT OR IMPEDE TRAFFIC — PENALTY. — 1. No person shall operate or otherwise position a vessel or other object or any person in such manner as to obstruct or impede the normal flow of traffic on the [lakes] **waters** of this state.

2. Any person who violates subsection 1 of this section is guilty upon the first conviction of a class C misdemeanor and upon the second and any subsequent conviction of a class B misdemeanor.

306.228. AUTHORIZED PERSONNEL APPOINTMENTS BY THE COMMISSIONER — NATIONAL EMERGENCY, PERSONNEL CALLED IN TO MILITARY SERVICE — DISCRIMINATION

PROHIBITED. — 1. The commissioner may appoint from within the membership not more than one assistant commissioner, two majors, nine captains, nine lieutenants, and one director of radio, each of whom shall have the same qualifications as the commissioner, and such additional force of sergeants, corporals and patrolmen[, so that the total number of members of the patrol shall not exceed ninety-nine officers and patrolmen] and such numbers of radio personnel as the commissioner deems necessary.

2. In case of a national emergency the commissioner may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Applicants shall not be discriminated against because of race, creed, color, national origin, religion or sex.

565.024. INVOLUNTARY MANSLAUGHTER, PENALTY. — 1. A person commits the crime of involuntary manslaughter in the first degree if he or she:

- (1) Recklessly causes the death of another person; or
- (2) While in an intoxicated condition operates a motor vehicle **or vessel** in this state and, when so operating, acts with criminal negligence to cause the death of any person; or
- (3) While in an intoxicated condition operates a motor vehicle **or vessel** in this state, and, when so operating, acts with criminal negligence to:
 - (a) Cause the death of any person not a passenger in the vehicle **or vessel** operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or vessel leaving the water; or
 - (b) Cause the death of two or more persons; or
 - (c) Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood; or
- (4) Operates a motor vehicle in violation of subsection 2 of section 304.022, RSMo, and when so operating, acts with criminal negligence to cause the death of any person authorized to operate an emergency vehicle, as defined in section 304.022, RSMo, while such person is in the performance of official duties;
- (5) **Operates a vessel in violation of subsections 1 and 2 of section 306.132, RSMo, and when so operating acts with criminal negligence to cause the death of any person authorized to operate an emergency watercraft, as defined in section 306.132, RSMo, while such person is in the performance of official duties.**

2. Involuntary manslaughter in the first degree under subdivision (1) or (2) of subsection 1 of this section is a class C felony. Involuntary manslaughter in the first degree under subdivision (3) of subsection 1 of this section is a class B felony. A second or subsequent violation of subdivision (3) of subsection 1 of this section is a class A felony. For any violation of subdivision (3) of subsection 1 of this section, the minimum prison term which the defendant must serve shall be eighty-five percent of his or her sentence. Any violation of [subdivision] **subdivisions (4) and (5)** of subsection 1 of this section is a class B felony.

3. A person commits the crime of involuntary manslaughter in the second degree if he acts with criminal negligence to cause the death of any person.

4. Involuntary manslaughter in the second degree is a class D felony.

565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER, EMERGENCY PERSONNEL, OR PROBATION AND PAROLE OFFICER IN THE SECOND DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree if such person:

- (1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, emergency personnel, or probation and parole officer; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle **or vessel** in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer;

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, emergency personnel, or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, emergency personnel, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

3. Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.

577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of

subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(4) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo; and

(5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior [convictions] **plea of guilty or finding of guilty in an intoxication-related traffic offense** shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A [conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction or a] plea of guilty or a finding of guilty followed by **incarceration**, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in **any intoxication-related traffic offense in a state, county or municipal court or any combination thereof**, shall be treated as a prior [conviction] **plea of guilty or finding of guilty for purposes of this section**.

577.080. ABANDONING MOTOR VEHICLE — LAST OWNER OF RECORD DEEMED THE OWNER OF ABANDONED MOTOR VEHICLE, PROCEDURES — PENALTY — CIVIL LIABILITY.

— 1. A person commits the crime of abandoning a motor vehicle, **vessel**, or trailer if he abandons any motor vehicle, **vessel**, or trailer on the right-of-way of any public road or state highway or on or in any of the waters in this state or on the banks of any stream, or on any land or water owned, operated or leased by the state, any board, department, agency or commission thereof, or any political subdivision thereof or on any land or water owned, operated or leased by the federal government or on any private real property owned by another without his consent.

2. For purposes of this section, the last owner of record of a motor vehicle, **vessel**, or trailer found abandoned and not shown to be transferred pursuant to sections 301.196 and 301.197, RSMo, shall be deemed prima facie to have been the owner of such motor vehicle, **vessel**, or trailer at the time it was abandoned and to have been the person who abandoned the motor vehicle, **vessel**, or trailer or caused or procured its abandonment. The registered owner of the abandoned motor vehicle, **vessel**, or trailer shall not be subject to the penalties provided by this section if the motor vehicle, **vessel**, or trailer was in the care, custody, or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address, and other pertinent information

of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle, **vessel**, or trailer at the time of the alleged violation. The affidavit submitted pursuant to this subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle, **vessel**, or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle, **vessel**, or trailer is alleged to have been stolen, the owner of the motor vehicle, **vessel**, or trailer shall submit proof that a police report was filed in a timely manner indicating that the vehicle **or vessel** was stolen at the time of the alleged violation.

3. Abandoning a motor vehicle, **vessel**, or trailer is a class A misdemeanor.

4. Any person convicted pursuant to this section shall be civilly liable for all reasonable towing, storage, and administrative costs associated with the abandonment of the motor vehicle, **vessel**, or trailer. Any reasonable towing, storage, and administrative costs in excess of the value of the abandoned motor vehicle, **vessel**, or trailer that exist at the time the motor vehicle **or vessel** is transferred pursuant to section 304.156, RSMo, shall remain the liability of the person convicted pursuant to this section so long as the towing company, as defined in chapter 304, RSMo, provided the title owner and lienholders, as ascertained by the department of revenue records, a notice within the time frame and in the form as described in subsection 1 of section 304.156, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect public safety and ensure that persons guilty of multiple intoxication-related traffic offenses receive an appropriate sentence, the repeal and reenactment of section 577.023 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 577.023 of this act shall be in full force and effect upon its passage and approval.

Approved July 3, 2008

HB 1779 [SS SCS HCS HB 1779]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding telecommunications services, natural gas safety penalties, and excavation

AN ACT to repeal sections 319.015, 319.022, 319.024, 319.025, 319.026, 319.030, 319.036, 319.037, 319.041, 319.045, 319.050, 386.020, 392.200, 392.220, 392.230, 392.245, 392.361, 392.370, 392.420, 392.450, 392.451, 392.480, 392.490, 392.510, 392.515, and 392.520, RSMo, and to enact in lieu thereof twenty-nine new sections relating to utility service provision, with an effective date for certain sections.

SECTION

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 - 319.016. Notification center participant, commission not required to be, when.
 - 319.022. Notification centers, participation requirements and eligibility — names of owners and operators made available, when.
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- 319.025. Excavator must give notice and obtain information, when, how — notice to notification center, when — clarification of markings response — project plans provided, when — permit for highway excavation required.
- 319.026. Notice of excavator, form of — written record maintained — incorrect location of facility, duty of excavator — visible markings necessary to continue work.
- 319.027. Design requests, how made — marking location required.
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- 392.420. Regulations, modification of, company may request by petition, when — waiver, when.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 319.015, 319.022, 319.024, 319.025, 319.026, 319.030, 319.036, 319.037, 319.041, 319.045, 319.050, 386.020, 392.200, 392.220, 392.230, 392.245, 392.361, 392.370, 392.420, 392.450, 392.451, 392.480, 392.490, 392.510, 392.515, and 392.520, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 319.015, 319.016, 319.022, 319.024, 319.025, 319.026, 319.027, 319.029, 319.030, 319.037, 319.041, 319.042, 319.045, 319.050, 386.020, 386.572, 392.200, 392.220, 392.230, 392.245, 392.361, 392.370, 392.420, 392.450, 392.451, 392.480, 392.510, 392.520, and 392.550, to read as follows:

319.015. DEFINITIONS. — For the purposes of sections 319.010 to 319.050, the following terms mean:

(1) "Approximate location", a strip of land not wider than the width of the underground facility plus two feet on either side thereof. In situations where reinforced concrete, multiplicity of adjacent facilities or other unusual specified conditions interfere with location attempts, the owner or operator shall designate to the best of his or her ability an approximate location of greater width;

(2) **"Design request"**, a request from any person for facility location information for design purposes only;

(3) **"Emergency"**, either:

(a) A sudden, unexpected occurrence, presenting a clear and imminent danger demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services. **"Unexpected occurrence"** includes, but is not limited to, thunderstorms, high winds, ice or snow storms, fires, floods, earthquakes, or other soil or geologic movements, riots, accidents, water or wastewater pipe breaks, vandalism, or sabotage; or

(b) **Any interruption in the generation, transmission, or distribution of electricity, or any damage to property or facilities that causes or could cause such an interruption;**

(4) **"Excavation"**, any operation in which earth, rock or other material in or on the ground is moved, removed or otherwise displaced by means of any tools, equipment or explosives and includes, without limitation, backfilling, grading, trenching, digging, ditching, drilling, well-drilling, augering, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and demolition of structures, except that, the use of mechanized tools and equipment to break and remove pavement and masonry down only to the depth of such pavement or masonry, the use of [high-velocity] **pressurized** air to disintegrate and suction to remove earth, rock and other materials, [and] the tilling of soil for agricultural or seeding purposes, **and the installation of marking flags and stakes for the location of underground facilities that are not driven** shall not be deemed excavation. Backfilling or moving earth on the ground in connection with other excavation operations at the same site shall not be deemed separate instances of excavation;

(5) **"Excavator"**, any person making one or more excavations who is required to make notices of excavation under the requirements of sections 319.010 to 319.050;

[(3)] (6) **"Marking"**, the use of [stakes,] paint, **flags, stakes**, or other clearly identifiable materials to show the field location of underground facilities, or the area of proposed excavation, in accordance with the color code standard of the American Public Works Association. Unless otherwise provided by the American Public Works Association, the following color scheme shall be used: blue for potable water; purple for reclaimed water, irrigation and slurry lines; green for sewers and drain lines; red for electric, power lines, cables, conduit and lighting cables; orange for communications, including telephone, cable television, alarm or signal lines, cable or conduit; yellow for gas, oil, steam, petroleum or gaseous materials; white for proposed excavation; pink for temporary marking of construction project site features such as centerline and top of slope and toe of slope;

[(4)] (7) **"Notification center"**, a statewide organization operating twenty-four hours a day, three hundred sixty-five days a year on a not-for-profit basis, supported by its participants, or by more than one operator of underground facilities, having as its principal purpose the statewide receipt and dissemination to participating owners and operators of underground facilities of information concerning intended excavation activities in the area where such owners and operators have underground facilities, and open to participation by any and all such owners and operators on a fair and uniform basis. Such notification center shall be governed by a board of directors elected by the membership and composed of representatives from each general membership group, **provided that one of the board members shall be a representative of the state highways and transportation commission so long as the commission is a participant in the notification center;**

(8) **"Notification center participant"**, an underground facility owner who is a member and participant in the notification center;

[(5)] (9) **"Permitted project"**, a project for which a permit for the work to be performed is required to be issued by a local, state or federal agency and, as a prerequisite to receiving such permit, the applicant is required to [locate all underground facilities in the area of the work and in the vicinity of the excavation and is required to notify each owner of such underground

facilities] **notify all underground facility owners in the area of the work for purposes of identifying the location of existing underground facilities;**

[(6)] **(10)** "Person", any individual, firm, joint venture, partnership, corporation, association, cooperative, municipality, political subdivision, governmental unit, department or agency and shall include a notification center and any trustee, receiver, assignee or personal representative thereof;

[(7)] **(11)** "Pipeline facility" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of gas or the treatment of gas, or used or intended for use in the transportation of hazardous liquids including petroleum, or petroleum products;

[(8)] **(12)** "Preengineered project", a project which is approved by an agency or political subdivision of the state and for which the agency or political subdivision responsible for the project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project and in such meeting all persons determined by the agency or political subdivision to have underground facilities located within the excavation area of the project are invited to attend and given an opportunity to verify or inform any agency or political subdivision of the location of their underground facilities, if any, within the excavation area and where the location of all known underground facilities are duly located or noted on the engineering drawing as specifications for the project;

[(9)] "Residential property", any real estate used or intended to be used as a residence by not more than four families on which no underground facilities exist which are owned or operated by any party other than the owner of said property;]

(13) "State plane coordinates", a system of locating a point on a flat plane developed by the National Oceanic and Atmospheric Administration and utilized by state agencies, local governments, and other persons to designate the site of a construction project;

(14) "Trenchless excavation", horizontal excavation parallel to the surface of the earth which does not use trenching or vertical digging as the primary means of excavation, including but not limited to directional boring, tunneling, or auguring;

[(10)] **(15)** "Underground facility", any item of personal property which shall be buried or placed below ground for use in connection with the storage or conveyance of water, storm drainage, sewage, telecommunications service, cable television service, electricity, oil, gas, hazardous liquids or other substances, and shall include but not be limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, **or appurtenances**, and those portions of pylons or other supports below ground that are within any public or private street, road or alley, right-of-way dedicated to the public use or utility easement of record, or prescriptive easement[; except that where] . **If gas distribution lines or electric lines, telecommunications facilities, cable television facilities, water service lines, water system, storm drainage or sewer system lines [are and such lines or facilities] , other than those used for vehicular traffic control, lighting of streets and highways and communications for emergency response, are located on private property and** are owned solely by the owner or owners of such **private** property, such lines or facilities receiving service shall not be considered underground facilities for purposes of this chapter[; provided, however], **except at locations where they cross or lie within an easement or right-of-way dedicated to public use or owned by a person other than the owner of the private property. Water and sanitary sewer lines providing service to private property that are owned solely by the owner of such property shall not be considered underground facilities at any location. Water, storm drainage, cross road drainage, or sewer lines owned by the state highways and transportation commission shall not be considered underground facilities at any location.** For railroads regulated by the Federal Railroad Administration, "underground facility" as used in sections 319.015 to 319.050 shall not include any excavating done by a railroad when such excavating is done entirely on land which the railroad owns or on which the railroad operates, or in the event of emergency, on adjacent land;

(16) "Underground facility owner", any person who owns or operates underground facilities as defined by this section;

[(11)] (17) "Working day", every day, except Saturday, Sunday or a legally declared local, state or federal holiday.

319.016. NOTIFICATION CENTER PARTICIPANT, COMMISSION NOT REQUIRED TO BE, WHEN. — Notwithstanding any provision of sections 319.010 to 319.050 to the contrary, the state highways and transportation commission shall not be required to be a notification center participant after December 31, 2011, but nothing in this section shall prohibit the commission from voluntarily choosing to be a notification center participant after that date.

319.022. NOTIFICATION CENTERS, PARTICIPATION REQUIREMENTS AND ELIGIBILITY — NAMES OF OWNERS AND OPERATORS MADE AVAILABLE, WHEN. — 1. Any person, except a railroad regulated by the Federal Railroad Administration, who installs or otherwise owns or operates an underground facility shall become a participant in a notification center upon first acquiring or owning or operating such underground facility. Except as provided in section 319.016, all owners and operators of underground facilities within the state shall maintain participation in a notification center.

2. All owners and operators of underground facilities which are located in a county of the first classification or second classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2003. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the first classification or second classification on or after January 1, 2003, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2003, all owners and operators of underground facilities which are located in a county of the first classification or second classification within the state shall maintain participation in the notification center **except as provided otherwise in section 319.016.**

[2.] 3. All owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2005. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the third classification or fourth classification on or after January 1, 2005, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2005, all owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state shall maintain participation in the notification center **except as provided otherwise in section 319.016.**

[3.] 4. The notification center shall maintain in its offices and make available to any [person] **notification center participant or excavator** upon request, a current list of the names and addresses of each [owner and operator participating in the] notification center **participant**, including the county or counties wherein each [owner or operator] **participant** has underground facilities. The notification center may charge a reasonable fee to [persons] **notification center participants or excavators** requesting such list as is necessary to recover the actual costs of printing and mailing.

[4.] 5. Excavators shall be informed of the availability of the list of **notification center** participants [in the notification center] required in subsection [2] 3 of this section in the manner provided for in section 319.024.

[5.] 6. An annual audit or review of the notification center shall be performed by a certified public accountant and a report of the findings submitted to the speaker of the house of representatives and the president pro tem of the senate.

319.024. PUBLIC NOTICE OF EXCAVATIONS, DUTIES OF OWNER AND OPERATOR. — 1.

Every person owning or operating an underground facility shall assist excavators and the general public in determining the location of underground facilities before excavation activities are begun or as may be required by subsection 6 of section 319.026 or subsection 1 of section 319.030 after an excavation has commenced. Methods of informing the public and excavators of the means of obtaining such information may, but need not, include advertising, including advertising in periodicals of general circulation or trade publications, information provided to professional or trade associations which routinely provide information to excavators or design professionals, or sponsoring meetings of excavators and design professionals for such purposes. Information provided by the notification center on behalf of persons owning or operating an underground facility shall be deemed in compliance with this section by such persons. Every person owning or operating underground facilities who has a written policy in determining the location of its underground facilities shall make available a copy of said policy to any [person] **notification center participant or excavator** upon request.

2. Every person owning or operating underground pipeline facilities shall, in addition to the requirements of subsection 1 of this section:

(1) Identify on a current basis, persons who normally engage in excavation activities in the area in which the pipeline is located. Every such person who is a participant in a notification center shall be deemed to comply with this subdivision if such notification center maintains and updates a list of the names and addresses of all excavators who have given notice of intent to excavate to such notification center during the previous [five years] **year** and provided the notification center shall, not less frequently than annually, provide public notification and actual notification to all excavators on such list of the existence and purpose of the notification center, and procedures for obtaining information from the notification center;

(2) Either directly or through the notification center, notify excavators and the public in the vicinity of his or her underground pipeline facility of the availability of the notification center by including the information set out in subsection 1 of section 319.025, in notifications required by the safety rules of the Missouri public service commission relating to its damage prevention program;

(3) Notify excavators annually who give notice of their intent to excavate of the type of marking to be provided and how to identify the markings.

319.025. EXCAVATOR MUST GIVE NOTICE AND OBTAIN INFORMATION, WHEN, HOW — NOTICE TO NOTIFICATION CENTER, WHEN — CLARIFICATION OF MARKINGS RESPONSE — PROJECT PLANS PROVIDED, WHEN — PERMIT FOR HIGHWAY EXCAVATION REQUIRED. — 1.

Except as provided in [sections] **subsection 3 of section 319.030** and **in section 319.050**, a person shall not make or begin any excavation in any public street, road or alley, right-of-way dedicated to the public use or utility easement of record or within any private street or private property without first giving notice to **the notification center** and obtaining information concerning the possible location of any underground facilities which may be affected by said excavation from [each and every owner and operator of underground facilities] **underground facility owners** whose [name appears] **names appear** on the current list of participants in the notification center **and who were communicated to the excavator as notification center participants who would be informed of the excavation notice**. Prior to January 1, 2003, a person shall not make or begin any excavation pursuant to this subsection without also making notice to owners or operators of underground facilities which do not participate in a notification center and whose name appears on the current list of the recorder of deeds in and for the county in which the excavation is to occur. Beginning January 1, 2003, notice to the notification center of proposed excavation shall be deemed notice to all owners and operators of underground facilities. The notice referred to in this section shall comply with the provisions of section 319.026. **As part of the process to request the locating of underground facilities and having them properly marked, the notification center shall ask excavators to identify**

whether or not the proposed excavation will be on a public right-of-way or easement dedicated to public use for vehicular traffic.

2. An excavator's notice to owners and operators of underground facilities participating in the notification center pursuant to section 319.022 is ineffective for purposes of subsection 1 of this section unless given to such notification center. Prior to January 1, 2003, the notice required by subsection 1 of this section shall be given directly to owners or operators of underground facilities who are not represented by a notification center.

3. [If the excavator is engaged in trenching, ditching, drilling, well-drilling or -driving, augering or boring and, if upon notification by the excavator pursuant to section 319.026, the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator, the excavator shall mark the proposed area of excavation prior to marking of location by the owner or operator of the facility. For any excavation, as defined in section 319.015,] **Notification center participants shall be relieved of the responsibility to respond to a notice of intent to excavate received directly from the person intending to commence an excavation, except for requests for clarification of markings through on-site meetings as provided in subsection 1 of section 319.030 and requests for locations at the time of an emergency as provided by section 319.050.**

4. If the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator through the notice required by this section, [the owner or operator may require] the excavator [to provide] **shall provide clarification of the area of excavation by markings or by providing** project plans to the owner or operator, or [meet] **by meeting** on the site of the excavation with representatives of the owner or operator as provided by subsection 1 of section 319.030. [The provisions of this subsection shall not apply to owners of residential property performing excavations on their own property.]

5. **Notwithstanding the provisions of this section to the contrary, a person shall not make or begin any excavation in any state highway, or on the right-of-way of any state highway, without first obtaining a permit from the state highways and transportation commission pursuant to section 227.240, RSMo, provided however, the provisions of this subsection shall not apply to railroad right of way owned or operated by a railroad.**

319.026. NOTICE OF EXCAVATOR, FORM OF — WRITTEN RECORD MAINTAINED — INCORRECT LOCATION OF FACILITY, DUTY OF EXCAVATOR — VISIBLE MARKINGS NECESSARY TO CONTINUE WORK. — 1. An excavator shall serve notice of intent to excavate to the notification center by toll-free telephone number operated on a twenty-four hour per day, seven day per week basis or[, prior to January 1, 2003, to individual nonparticipant owners or operators] **by facsimile or by completing notice via the Internet** at least two working days, but not more than ten working days, before **the expected date of** commencing the excavation activity. The notification center receiving such notice shall inform the excavator of all [owners, operators and other persons] **notification center participants** to whom such notice will be transmitted and shall promptly transmit **all details of** such notice **provided under subsection 2 of this section** to every [public utility, municipal corporation and all persons owning or operating an underground facility] **notification center participant** in the area of excavation [and which are participants in and have registered their locations with the notification center. The notification center receiving such notice shall solicit all information required in subsection 2 of this section from the excavator and shall transmit all details of such notice as required by this section].

2. [Each notice] **Notices** of intent to excavate given pursuant to this section shall contain **the following information:**

(1) The name[, address] and telephone number [and facsimile number, if any.] of the person filing the notice of [intent,] **excavation, if the telephone number is different than that**

of the excavator, and the name, address [and] , telephone number of the excavator[,] and whether the excavator's telephone is equipped with a recording device;

(2) The date the excavation activity is **expected** to commence, the depth of planned excavation and, if applicable, that the use of explosives is anticipated on the excavation site, and the type of excavation being planned, including whether the excavation involves [tunneling or horizontal boring. The notice shall state whether someone is available between 8:00 a.m. and 5:00 p.m. on working days at the telephone number given and whether the excavator's telephone is equipped with a recording device. The notice shall also specify] **trenchless excavation;**

(3) **The facsimile number, email address, and cellular telephone number of the excavator, if any;**

(4) **The name of the person primarily responsible for conducting the excavation or managing the excavation process, and if any of the information stated in subdivisions (1) or (3) of this subsection is different for the person primarily responsible for the excavation, the notice shall also state the same information for that person;**

(5) **A detailed description accepted by the notification center sufficient for the location of the excavation by one or more of the following means: by reference to a specific street address, [or by reference to specific quarter section, and shall state whether excavation is to take place within the city limits. The notice shall also include] or by description of location in relation to the nearest numbered, lettered, or named state or county road or city street for which a road sign is posted, or by latitude and longitude including the appropriate description in degrees, minutes, and seconds, or by state plane coordinates;**

(6) **A description of the site of excavation by approximate distance and direction from the nearest state or county road or city street or intersection of such roads or streets unless previously provided under subdivision (5) of this subsection, and the proximity of the site to any prominent landmarks;**

(7) A description of the location or locations of the excavation at the site described by direction and approximate distance in relation to prominent features of the site, such as existing buildings or roadways[. For excavations occurring outside the limits of an incorporated city, the following additional information shall be provided: the location of the excavation in relation to the nearest numbered, lettered or named state or county road which is posted on a road sign, including the approximate distance from the nearest intersection or prominent landmark; and, if the excavation is not on or near a posted numbered, lettered or named state or county road,] ;

(8) **Directions as to how to reach the site of the excavation from the nearest such road, if the excavation is not on or near a posted numbered, lettered, or named state or county road or city street.**

3. The notification center receiving such notice shall solicit all information required [in this] **by subsection 2 of this section** and shall require the excavator to provide all such information before notice by the excavator is deemed to be completed pursuant to sections 319.015 to 319.050. The notification center shall transmit all details of such notice as required [in subsection 1 of] **by this section.**

[3.] 4. A [written] record of each notice of intent to excavate shall be maintained by the notification center or, prior to January 1, 2003, by the nonmember owner or operator receiving direct notifications for a period of five years. The record shall include the date the notice was received and all information required by subsection 2 of this section which was provided by the excavator **and a record of the underground facility owners notified by the notification center.** If the [recipient] **notification center** creates a record of the notice by [computer or] telephonic recording, such record of the original notice shall be maintained for one year from the date of receipt. **Records of notices to excavate maintained by the notification center in electronic form shall be deemed to be records under this subsection.** Persons holding records of notices of intent to excavate and records of information provided to the excavator by the notification center or owner or operator of the facility, shall make copies of such records

available for a reasonable copying fee upon the request of the owner or operator of the underground facilities or the excavator filing the notice.

[4.] **5.** If in the course of excavation the person responsible for the excavation operations discovers that the owner or operator of the underground facility who is a participant in a notification center has incorrectly located the underground facility, he or she shall notify the notification center which shall inform the [participating owner or operator] **notification center participant**. If the owner or operator of the underground facility is not a participant in a notification center prior to the January 1, 2003, effective date for mandatory participation pursuant to section 319.022, the person responsible for the excavation shall notify the owner. The person responsible for maintaining records of the location of underground facilities for the [owner or operator] **notification center participant** shall correct such records to show the actual location of such facilities, if current records are incorrect.

[5. Notwithstanding the fact that a project is a preengineered project or a permitted project, excavators connected therewith shall be required to give notification in accordance with this section prior to commencement of excavation.]

6. When markings have been provided in response to a notice of intent to excavate, excavators may **commence or** continue to work within the area described in the notice **for** so long as the markings are visible. If markings become unusable due to weather, construction or other cause, the excavator shall contact the notification center to request remarking. Such notice shall be given in the same manner as original notice of intent to excavate, and the owner or operator shall remark the site in the same manner, within the same time, as required in response to an original notice of intent to excavate. Each excavator shall exercise reasonable care not to unnecessarily disturb or obliterate markings provided for location of underground facilities. If remarking is required due to the excavator's failure to exercise reasonable care, or if repeated unnecessary requests for remarking are made by an excavator even though the markings are visible and usable, the excavator may be liable to the owner or operator for the reasonable cost of such remarking.

319.027. DESIGN REQUESTS, HOW MADE — MARKING LOCATION REQUIRED. — 1. Any person may make design requests by contacting the notification center. Such design requests shall include all information deemed necessary by the notification center to complete the notice, including the identification of the person and a description of the location of the project being designed and other information similar to that required of excavators under section 319.026.

2. Design requests shall be made to the notification center at least five working days, but not more than ten working days, before the date the person has requested receiving the information from the underground facility owner. Upon receipt of a design request, the notification center shall inform the person of the name of all notification center participants to whom the notice will be transmitted and shall promptly transmit such notice to the appropriate underground facility owners.

3. Every underground facility owner who receives a design request shall mark the location of the facility, or contact the person making the request, within five working days after the date the notice was received from the notification center. If the person making the request was contacted as an alternative to marking location, the person and the underground facility owner shall mutually agree on a schedule and method for providing the information.

4. No excavation may be commenced based upon information received through a design request. Obtaining information through a design request shall not excuse any person commencing an excavation from making notice and obtaining information under sections 319.025 and 319.026 concerning the possible location of any underground facilities which may be affected.

319.029. NOTIFICATION REQUIRED PRIOR TO EXCAVATION. — Notwithstanding the fact that a project is a preengineered project or a permitted project, or that a design request was previously made, excavators connected therewith shall be required to give notification in accordance with sections 319.025 and 319.026 prior to commencement of excavation.

319.030. NOTIFICATION OF LOCATION OF UNDERGROUND FACILITY, WHEN, HOW — FAILURE TO PROVIDE NOTICE OF LOCATION, EFFECT. — 1. Every person owning or operating an underground facility to whom notice of intent to excavate is required to be given shall, upon receipt of such notice as provided in this section from a person intending to commence an excavation, inform the excavator as promptly as practical, but not in excess of two working days [from receipt of the notice], unless otherwise mutually agreed, of the approximate location of underground facilities in or near the area of the excavation so as to enable the person engaged in the excavation work to locate the facilities in advance of and during the excavation work. **The two working days provided for notice in this subsection and subsection 1 of section 319.026, shall begin at 12:00 a.m. following the receipt of the request by the notification center.** If the information available to the owner or operator of a pipeline facility or an underground electric or communications cable discloses that valves, vaults or other appurtenances are located in or near the area of excavation, the owner or operator shall either inform the excavator of the approximate location of such appurtenances at the same time and in the same manner as the approximate location of the remainder of the facility is provided, or shall at such time inform the excavator that appurtenances exist in the area and provide a telephone number through which the excavator may contact a representative of the owner or operator who will meet at the site within one working day after request from the excavator and at such meeting furnish the excavator with the available information about the location and nature of such appurtenances. If the excavator states in the notice of intent to excavate that the excavation will involve [tunneling or horizontal boring] **trenchless technology**, the owner or operator shall inform the excavator of the depth, to the best of his or her knowledge or ability, of the facility according to the records of the owner or operator. The owner or operator shall provide the approximate location of underground facilities by use of markings. If **flags or stakes** are used, [staking] **such marking** shall be consistent with the color code and other standards for ground markings. Persons representing the excavator and the owner or operator shall meet on the site of excavation within two working days of a request by either person for such meeting for the purpose of clarifying markings, or upon agreement of the excavator and owner or operator, such meeting may be an alternate means of providing the location of facilities by originally marking the approximate location of the facility at the time of the meeting. If upon receipt of a notice of intent to excavate, an owner or operator determines that he or she neither owns or operates underground facilities in or near the area of excavation, the owner or operator shall within two working days after receipt of the notice, inform the excavator that the owner or operator has no facilities located in the area of the proposed excavation. [If the notice of intent to excavate provided to the owner or operator of the underground facility by the notification center states that a person is available at the telephone number given in the notice between 8:00 a.m. and 5:00 p.m. on each working day or that the excavator's telephone is equipped with a recording device, or states a facsimile number for the excavator, the owner or operator shall make actual notice of no facilities in the area of the excavation described in the notice by one or more of the following methods: calling the telephone number given between 8:00 a.m. and 5:00 p.m. on a working day; leaving a message on the excavator's recording device; transmitting a facsimile message to the excavator; marking "no facilities" or "clear" at the site of excavation; or verbally informing the excavator at the site of excavation. If the notice of intent to excavate provided to the owner or operator does not indicate that a person is available at the telephone number given in the notice between 8:00 a.m. and 5:00 p.m. on each working day or that the excavator's telephone is equipped with a recording device or that a facsimile number is provided for receiving facsimile messages, then the owner or operator may attempt to notify the excavator of no facilities in the

area of excavation by any of the methods indicated above; however, two documented attempts by the owner or operator to reach such an excavator by telephone shall constitute compliance with this subsection.] **The owner or operator of the underground facility shall make notice to the excavator that no facilities are located in the area of excavation by contacting the excavator by any of the following methods:**

- (1) **By calling the primary number of the excavator or by calling the telephone number of the responsible person as provided by the excavator under subdivision (4) of subsection 2 of section 319.026;**
- (2) **By leaving a message on the recording device for such numbers;**
- (3) **By calling the cellular telephone number of the excavator or responsible person;**
- (4) **By notifying the excavator by facsimile or electronic mail at numbers or addresses stated by the excavator in the notice of excavation made under subsection 2 of section 319.026;**
- (5) **By marking "clear" or "OK" at the site of excavation; or**
- (6) **By verbally informing the excavator in person.**

If the only means of contacting the excavator is one or more telephone numbers provided by the excavator in the notice of excavation under section 319.026, then two attempts by the underground facility owner to contact the excavator at one of the telephone numbers provided shall constitute compliance with this subsection.

2. A record of the date and means of informing the excavator that no facilities were located by the owner or operator shall be included in the written records [required by subsection 3 of section 319.026] **of the underground facility owner regarding each specific notice of excavation.**

[2. Owners and operators of underground facilities who are participants in the notification center according to the current list maintained in the offices of the notification center shall be relieved of the responsibility to respond to notices of intent to excavate received directly from the person intending to commence an excavation, except for requests for clarification of markings through on-site meetings and requests for locations at the time of an emergency as provided by section 319.050.]

3. In the event that a person owning or operating an underground facility fails to comply with the provisions of subsection 1 of this section after notice given by an excavator in compliance with section 319.026, the excavator, prior to commencing the excavation, shall give a second notice to the [same entity to whom the original notice was made] **notification center as required by section 319.026 stating that there has been no response to the original notice given under section 319.026.** [If,] After the receipt of the [second] notice **stating there has been "no response",** the owner or operator of an underground facility [fails to provide the excavator with location information during the next working day] **shall, within two hours of the receipt of such notice, mark its facilities or contact and inform the excavator of when the facilities will be marked; provided, however, that for "no response" notices made to the notification center by 2:00 p.m., the markings shall be completed on the working day the notice is made to the notification center, and provided that for "no response" notices made to the notification center after 2:00 p.m., the markings shall be completed no later than 10:00 a.m. on the next working day. If an underground facility owner fails to mark its facilities or contact the excavator as required by this subsection,** the excavator may commence the excavation. Nothing in this subsection shall excuse the excavator from exercising the degree of care in making the excavation as is otherwise required by law.

4. For purposes of this section, a period of two working days begins [upon receipt of the excavator's notice of intent to excavate or upon receipt of a request for a meeting and shall end on the second working day thereafter at the same time of day. If the excavator's notice of intent to excavate or a request for a meeting is received on a working day before 8:00 a.m., such period of time shall begin at 8:00 a.m. of that day. If the excavator's notice of intent to excavate or a

request for a meeting is received after 5:00 p.m. on a working day, or at any time on a day that is not a working day, then such period of time shall begin at 8:00 a.m. of the first working day after the day of actual receipt] **at 12:00 a.m. following when the request is made.**

319.037. EXCAVATION SITES INCLUDED IN REQUIREMENTS — EQUIPMENT PROHIBITED AT SUCH SITES. — 1. Notwithstanding any other provision of law to the contrary, the procedures and requirements set forth in this section shall apply on the site of any excavation involving [horizontal boring] **trenchless excavation**, including directional drilling, where the approximate location of underground facilities has been marked in compliance with section 319.030 and where any part of the walls of the intended bore are within the marked approximate location of the underground facility.

2. The excavator shall not use power-driven equipment for [horizontal boring] **trenchless excavation**, including directional drilling, within the marked approximate location of such underground facilities until the excavator has made careful and prudent efforts to confirm the horizontal and vertical location thereof in the vicinity of the proposed excavation through methods appropriate to the geologic and weather conditions, and the nature of the facility, such as the use of electronic locating devices, hand digging, pot holing when practical, soft digging, vacuum methods, use of pressurized air or water, pneumatic hand tools or other noninvasive methods as such methods are developed. Such methods of confirming location shall not violate established safety practices. Nothing in this subsection shall authorize any person other than the owner or operator of a facility to attach an electronic locating device to any underground facility. For excavations paralleling the underground facility, such efforts to confirm the location of the facility shall be made at careful and prudent intervals. The excavator shall also make careful and prudent efforts by such means as are appropriate to the geologic and weather conditions and the nature of the facility, to confirm the horizontal and vertical location of the boring device during boring operations. Notwithstanding the foregoing, the excavator shall not be required to confirm the horizontal or vertical location of the underground facilities if the excavator, using the methods described in this section, excavates a hole over the underground facilities to a depth two feet or more below the planned boring path and then carefully and prudently monitors the horizontal and vertical location of the boring device in a manner calculated to enable the device to be visually observed by the excavator as it crosses the entire width of the marked approximate location of the underground facilities.

319.041. SAFE AND PRUDENT EXCAVATION REQUIRED. — Nothing in the foregoing shall relieve an excavator from the obligation to excavate in a safe and prudent manner, nor shall it absolve an excavator from liability for damage to legally installed facilities. [Notwithstanding any provision of law to the contrary, nothing in this chapter shall abrogate any contractual provisions entered into between any railroad and any other party owning or operating an underground facility within the railroad's right-of-way.]

319.042. NO ABROGATION OF CONTRACTUAL OBLIGATIONS WITH RAILROADS. — Notwithstanding any provision of law to the contrary, nothing in this chapter shall abrogate any contractual provisions entered into between any railroad and any other party owning or operating an underground facility within the railroad's right-of-way. For railroads regulated by the Federal Railroad Administration, sections 319.015 to 319.050 shall not include any underground facility owned or operated by a railroad on land which the railroad owns or any excavation done by a railroad when such excavation is done entirely on land which the railroad owns.

319.045. NOTICE IF UNDERGROUND FACILITY DISTURBED TO NOTIFICATION CENTER, WHEN — DUTIES OF EXCAVATOR — CIVIL PENALTIES — ATTORNEY GENERAL MAY BRING ACTION. — 1. In the event of any damage or dislocation or disturbance of any underground

facility in connection with any excavation, the person responsible for the excavation operations shall immediately notify the notification center [and the owner or operator of the facility or the owner or operator, if known, if it is not a participant in the notification center prior to January 1, 2003. On or after January 1, 2003, the responsible party shall notify the notification center only]

. This subsection shall be deemed to require reporting of any damage, dislocation, or disturbance to trace wires, encasements, cathode protection, permanent above-ground stakes or other such items utilized for protection of the underground facility.

2. In the event of any damage or dislocation or disturbance to any underground facility **or any protective devices required to be reported by the excavator under subsection 1 of this section**, in advance of or during the excavation work, the person responsible for the excavation operations shall not conceal or attempt to conceal such damage or dislocation or disturbance, nor shall that person attempt or make repairs to the facility unless authorized by the owner or operator of the facility. In the case of sewer lines or facilities, emergency temporary repairs may be made by the excavator after notification without the owners' or operators' authorization to prevent further damage to the facilities. Such emergency repairs shall not relieve the excavator of responsibility to make notification as required by subsection 1 of this section.

3. Any person who violates in any material respect the provisions of section 319.022, [319.023,] 319.025, 319.026, **319.029**, 319.030, 319.037, or 319.045 or who willfully damages an underground facility shall be liable to the state of Missouri for a civil penalty of up to ten thousand dollars for each violation for each day such violation persists, except that the maximum penalty for violation of the provisions of sections 319.010 to 319.050 shall not exceed five hundred thousand dollars for any related series of violations. An action to recover such civil penalty may be brought by the attorney general or a prosecuting attorney on behalf of the state of Missouri in any appropriate circuit court of this state. Trial thereof shall be before the court, which shall consider the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require in determining the amount of penalty imposed.

4. The attorney general may bring an action in any appropriate circuit court of this state for equitable relief to redress or restrain a violation by any person of any provision of sections 319.010 to 319.050. The court may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, temporary or permanent.

319.050. EXEMPTIONS FROM REQUIREMENT TO OBTAIN INFORMATION. — The provisions of sections 319.025 and 319.026 shall not apply to any [utility which is repairing or replacing any of its facilities due to damage caused during an unexpected occurrence or when making an excavation at times of emergency resulting from a sudden, unexpected occurrence, and presenting a clear and imminent danger demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. "Unexpected occurrence" includes, but is not limited to, thunderstorms, high winds, ice or snow storms, fires, floods, earthquakes, or other soil or geologic movements, riots, accidents, water pipe breaks, vandalism or sabotage which cause damage to surface or subsurface facilities requiring immediate repair] **excavation when necessary due to an emergency as defined in section 319.015.** An [excavator or utility] **excavation** may proceed regarding such emergency, provided all reasonable precautions have been taken to protect the underground facilities. In any such case, the excavator [or utility] shall give notification, substantially in compliance with section 319.026, as soon as practical, and upon being notified that an emergency exists, each [owner and operator of an] underground facility **owner** in the area shall [immediately provide all location information reasonably available to any excavator who requests the same] , **within two hours after receiving such notice, provide markings or contact the excavator with any information**

immediately available to assist the excavator and shall inform the excavator if not able to mark within the two hours of when the underground facility will be marked at the site of the emergency. The excavator may be liable to the owner or operator for costs directly associated with the locating of any such underground facility relating to a notification of an emergency that does not meet the definition of "emergency" as stated in section 319.015.

386.020. DEFINITIONS. — As used in this chapter, the following words and phrases mean:

(1) "Alternative local exchange telecommunications company", a local exchange telecommunications company certified by the commission to provide basic or nonbasic local telecommunications service or switched exchange access service, or any combination of such services, in a specific geographic area subsequent to December 31, 1995;

(2) "Alternative operator services company", any certificated interexchange telecommunications company which receives more than forty percent of its annual Missouri intrastate telecommunications service revenues from the provision of operator services pursuant to operator services contracts with traffic aggregators;

(3) "Basic interexchange telecommunications service" includes, at a minimum, two-way switched voice service between points in different local calling scopes as determined by the commission and shall include other services as determined by the commission by rule upon periodic review and update;

(4) "Basic local telecommunications service", two-way switched voice service within a local calling scope as determined by the commission comprised of any of the following services and their recurring and nonrecurring charges:

(a) Multiparty, single line, including installation, touchtone dialing, and any applicable mileage or zone charges;

(b) Assistance programs for installation of, or access to, basic local telecommunications services for qualifying economically disadvantaged or disabled customers or both, including, but not limited to, lifeline services and link-up Missouri services for low-income customers or dual-party relay service for the hearing impaired and speech impaired;

(c) Access to local emergency services including, but not limited to, 911 service established by local authorities;

(d) Access to basic local operator services;

(e) Access to basic local directory assistance;

(f) Standard intercept service;

(g) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission;

(h) One standard white pages directory listing.

Basic local telecommunications service does not include optional toll-free calling outside a local calling scope but within a community of interest, available for an additional monthly fee or the offering or provision of basic local telecommunications service at private shared-tenant service locations;

(5) "Cable television service", the one-way transmission to subscribers of video programming or other programming service and the subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

(6) "Carrier of last resort", any telecommunications company which is obligated to offer basic local telecommunications service to all customers who request service in a geographic area defined by the commission and cannot abandon this obligation without approval from the commission;

(7) "Commission", the "Public Service Commission" hereby created;

(8) "Commissioner", one of the members of the commission;

(9) "Competitive telecommunications company", a telecommunications company which has been classified as such by the commission pursuant to section 392.361 **or 392.245**, RSMo;

(10) "Competitive telecommunications service", a telecommunications service which has been classified as such by the commission pursuant to section 392.245, RSMo, or to section 392.361, RSMo, or which has become a competitive telecommunications service pursuant to section 392.370, RSMo;

(11) "Corporation" includes a corporation, company, association and joint stock association or company;

(12) "Customer-owned pay telephone", a privately owned telecommunications device that is not owned, leased or otherwise controlled by a local exchange telecommunications company and which provides telecommunications services for a use fee to the general public;

(13) "Effective competition" shall be determined by the commission based on:

(a) The extent to which services are available from alternative providers in the relevant market;

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions;

(c) The extent to which the purposes and policies of chapter 392, RSMo, including the reasonableness of rates, as set out in section 392.185, RSMo, are being advanced;

(d) Existing economic or regulatory barriers to entry; and

(e) Any other factors deemed relevant by the commission and necessary to implement the purposes and policies of chapter 392, RSMo;

(14) "Electric plant" includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power;

(15) "Electrical corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation generating electricity solely for railroad, light rail or street railroad purposes or for the use of its tenants and not for sale to others, owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others;

(16) "Exchange", a geographical area for the administration of telecommunications services, established and described by the tariff of a telecommunications company providing basic local telecommunications service;

(17) "Exchange access service", a service provided by a local exchange telecommunications company which enables a telecommunications company or other customer to enter and exit the local exchange telecommunications network in order to originate or terminate interexchange telecommunications service;

(18) "Gas corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any gas plant operating for public use under privilege, license or franchise now or hereafter granted by the state or any political subdivision, county or municipality thereof;

(19) "Gas plant" includes all real estate, fixtures and personal property owned, operated, controlled, used or to be used for or in connection with or to facilitate the manufacture, distribution, sale or furnishing of gas, natural or manufactured, for light, heat or power;

(20) "Heating company" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, managing or controlling any plant or property for

manufacturing and distributing and selling, for distribution, or distributing hot or cold water, steam or currents of hot or cold air for motive power, heating, cooking, or for any public use or service, in any city, town or village in this state; provided, that no agency or authority created by or operated pursuant to an interstate compact established pursuant to section 70.370, RSMo, shall be a heating company or subject to regulation by the commission;

(21) "High-cost area", a geographic area, which shall follow exchange boundaries and be no smaller than an exchange nor larger than a local calling scope, where the cost of providing basic local telecommunications service as determined by the commission, giving due regard to recovery of an appropriate share of joint and common costs as well as those costs related to carrier of last resort obligations, exceeds the rate for basic local telecommunications service found reasonable by the commission;

(22) "Incumbent local exchange telecommunications company", a local exchange telecommunications company authorized to provide basic local telecommunications service in a specific geographic area as of December 31, 1995, or a successor in interest to such a company;

(23) **"Interconnected voice over Internet protocol service", service that:**

(a) **Enables real-time, two-way voice communications;**

(b) **Requires a broadband connection from the user's location;**

(c) **Requires Internet protocol-compatible customer premises equipment; and**

(d) **Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network;**

(24) "Interexchange telecommunications company", any company engaged in the provision of interexchange telecommunications service;

[(24)] (25) "Interexchange telecommunications service", telecommunications service between points in two or more exchanges;

[(25)] (26) "InterLATA", interexchange telecommunications service between points in different local access and transportation areas;

[(26)] (27) "IntraLATA", interexchange telecommunications service between points within the same local access and transportation area;

[(27)] (28) "Light rail" includes every rail transportation system in which one or more rail vehicles are propelled electrically by overhead catenary wire upon tracks located substantially within an urban area and are operated exclusively in the transportation of passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in connection with the operation of light rail;

[(28)] (29) "Line" includes route;

[(29)] (30) "Local access and transportation area" or "LATA", contiguous geographic area approved by the U.S. District Court for the District of Columbia in *United States v. Western Electric*, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell Operating companies;

[(30)] (31) "Local exchange telecommunications company", any company engaged in the provision of local exchange telecommunications service. A local exchange telecommunications company shall be considered a "large local exchange telecommunications company" if it has at least one hundred thousand access lines in Missouri and a "small local exchange telecommunications company" if it has less than one hundred thousand access lines in Missouri;

[(31)] (32) "Local exchange telecommunications service", telecommunications service between points within an exchange;

[(32)] (33) "Long-run incremental cost", the change in total costs of the company of producing an increment of output in the long run when the company uses least cost technology, and excluding any costs that, in the long run, are not brought into existence as a direct result of the increment of output. The relevant increment of output shall be the level of output necessary to satisfy total current demand levels for the service in question, or, for new services, demand levels that can be demonstrably anticipated;

[(33)] **(34)** "Municipality" includes a city, village or town;

[(34)] **(35)** "Nonbasic telecommunications services" shall be all regulated telecommunications services other than basic local and exchange access telecommunications services, and shall include the services identified in paragraphs (d) and (e) of subdivision (4) of this section. Any retail telecommunications service offered for the first time after August 28, 1996, shall be classified as a nonbasic telecommunications service, including any new service which does not replace an existing service;

[(35)] **(36)** "Noncompetitive telecommunications company", a telecommunications company other than a competitive telecommunications company or a transitionally competitive telecommunications company;

[(36)] **(37)** "Noncompetitive telecommunications service", a telecommunications service other than a competitive or transitionally competitive telecommunications service;

[(37)] **(38)** "Operator services", operator-assisted interexchange telecommunications service by means of either human or automated call intervention and includes, but is not limited to, billing or completion of calling card, collect, person-to-person, station-to-station or third number billed calls;

[(38)] **(39)** "Operator services contract", any agreement between a traffic aggregator and a certificated interexchange telecommunications company to provide operator services at a traffic aggregator location;

[(39)] **(40)** "Person" includes an individual, and a firm or copartnership;

[(40)] **(41)** "Private shared tenant services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises as authorized by the commission by a commercial-shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of local exchange telecommunications companies and to interexchange telecommunications companies;

[(41)] **(42)** "Private telecommunications system", a telecommunications system controlled by a person or corporation for the sole and exclusive use of such person, corporation or legal or corporate affiliate thereof;

[(42)] **(43)** "Public utility" includes every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heat or refrigerating corporation, and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this chapter;

[(43)] **(44)** "Railroad" includes every railroad and railway, other than street railroad or light rail, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, real estate and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad;

[(44)] **(45)** "Railroad corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing any railroad or railway as defined in this section, or any cars or other equipment used thereon or in connection therewith;

[(45)] **(46)** "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge, switching charge, rental or other compensation of any corporation, person or public utility, or any two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching charges, rentals or other compensations of any corporation, person or public utility or any schedule or tariff thereof;

[(46)] **(47)** "Resale of telecommunications service", the offering or providing of telecommunications service primarily through the use of services or facilities owned or provided

by a separate telecommunications company, but does not include the offering or providing of private shared tenant services;

[(47)] **(48)** "Service" includes not only the use and accommodations afforded consumers or patrons, but also any product or commodity furnished by any corporation, person or public utility and the plant, equipment, apparatus, appliances, property and facilities employed by any corporation, person or public utility in performing any service or in furnishing any product or commodity and devoted to the public purposes of such corporation, person or public utility, and to the use and accommodation of consumers or patrons;

[(48)] **(49)** "Sewer corporation" includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain, except that the term shall not include sewer systems with fewer than twenty-five outlets;

[(49)] **(50)** "Sewer system" includes all pipes, pumps, canals, lagoons, plants, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the collection, carriage, treatment and disposal of sewage for municipal, domestic or other beneficial or necessary purpose;

[(50)] **(51)** "Street railroad" includes every railroad by whatsoever type of power operated, and all extensions and branches thereof and supplementary facilities thereto by whatsoever type of vehicle operated, for public use in the conveyance of persons or property for compensation, mainly providing local transportation service upon the streets, highways and public places in a municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels, stations, terminals and real estate of every kind used, operated or owned in connection therewith but this term shall not include light rail as defined in this section; and the term "street railroad" when used in this chapter shall also include all motor bus and trolley bus lines and routes and similar local transportation facilities, and the rolling stock and other equipment thereof and the appurtenances thereto, when operated as a part of a street railroad or trolley bus local transportation system, or in conjunction therewith or supplementary thereto, but such term shall not include a railroad constituting or used as part of a trunk line railroad system and any street railroad as defined above which shall be converted wholly to motor bus operation shall nevertheless continue to be included within the term "street railroad" as used herein;

[(51)] **(52)** "Telecommunications company" includes telephone corporations as that term is used in the statutes of this state and every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any facilities used to provide telecommunications service for hire, sale or resale within this state;

[(52)] **(53)** "Telecommunications facilities" includes lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated, controlled or owned by any telecommunications company to facilitate the provision of telecommunications service;

[(53)] **(54)** "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

(a) The rent, sale, lease, or exchange for other value received of customer premises equipment except for customer premises equipment owned by a telephone company certificated or otherwise authorized to provide telephone service prior to September 28, 1987, and provided under tariff or in inventory on January 1, 1983, which must be detariffed no later than December 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and except for customer premises equipment owned or provided by a telecommunications company and used for answering 911 or emergency calls;

- (b) Answering services and paging services;
- (c) The offering of radio communication services and facilities when such services and facilities are provided under a license granted by the Federal Communications Commission under the commercial mobile radio services rules and regulations;
- (d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;
- (e) Services provided by a private telecommunications system;
- (f) Cable television service;
- (g) The installation and maintenance of inside wire within a customer's premises;
- (h) Electronic publishing services; [or]
- (i) Services provided pursuant to a broadcast radio or television license issued by the Federal Communications Commission; or
- (j) Interconnected voice over Internet protocol service;**

[(54)] **(55)** "Telephone cooperative", every corporation defined as a telecommunications company in this section, in which at least ninety percent of those persons and corporations subscribing to receive local telecommunications service from the corporation own at least ninety percent of the corporation's outstanding and issued capital stock and in which no subscriber owns more than two shares of the corporation's outstanding and issued capital stock;

[(55)] **(56)** "Traffic aggregator", any person, firm, partnership or corporation which furnishes a telephone for use by the public and includes, but is not limited to, telephones located in rooms, offices and similar locations in hotels, motels, hospitals, colleges, universities, airports and public or customer-owned pay telephone locations, whether or not coin operated;

[(56)] **(57)** "Transitionally competitive telecommunications company", an interexchange telecommunications company which provides any noncompetitive or transitionally competitive telecommunications service, except for an interexchange telecommunications company which provides only noncompetitive telecommunications service;

[(57)] **(58)** "Transitionally competitive telecommunications service", a telecommunications service offered by a noncompetitive or transitionally competitive telecommunications company and classified as transitionally competitive by the commission pursuant to section 392.361 or 392.370, RSMo;

[(58)] **(59)** "Water corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water;

[(59)] **(60)** "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for municipal, domestic or other beneficial use.

386.572. NATURAL GAS SAFETY STANDARDS, GAS PLANTS NOT TO VIOLATE — MAXIMUM PENALTIES FOR VIOLATIONS, HOW DETERMINED. — 1. No corporation, person, public utility, or municipality that owns any gas plant shall violate any law or any order, decision, decree, rule, direction, demand, or requirement of the commission or any part or portion thereof relating to federally mandated natural gas safety standards. Notwithstanding the above, a municipality that owns any gas plant shall be subject to the provisions of this section only for violations of natural gas safety laws, rules, or orders.

2. The maximum penalties for violations of federally mandated natural gas safety standards, or such stricter natural gas safety standards or rules as may be approved by

the commission, shall not be greater than fifteen thousand dollars for each violation with a maximum penalty for a continuing violation or a multiple series of violations of the same standard or rule provision not to exceed one hundred fifty thousand dollars, notwithstanding any provisions of subsection 1 of section 386.570 to the contrary. The maximum penalty for each violation shall increase to twenty thousand dollars, effective January 1, 2015, twenty-five thousand dollars, effective January 1, 2025, thirty thousand dollars, effective January 1, 2035, and forty thousand dollars, effective January 1, 2040. The maximum penalty for a continuing violation or a multiple series of violations of the same standard or rule provision shall increase to two hundred thousand dollars, effective January 1, 2015, two hundred fifty thousand dollars, effective January 1, 2025, three hundred thousand dollars, effective January 1, 2035, and four hundred thousand dollars, effective January 1, 2040. In determining the amount of the penalty, the commission shall consider the nature, circumstances, and gravity of the violation, and also shall consider, with respect to the entity found to have committed the violation:

- (1) The degree of culpability;
- (2) Any history of prior violations;
- (3) The effect of the penalty on the entity's ability to continue operation;
- (4) Any good faith effort in attempting to achieve compliance;
- (5) Ability to pay the penalty; and
- (6) Such other matters as are relevant in the case.

3. Every violation of a specific natural gas safety standard or rule by any corporation, person, public utility, or municipality that owns any gas plant is a separate and distinct offense, regardless of whether such violations relate to the same incident. In case of a continuing violation, each day's continuance thereof shall be a separate and distinct offense.

4. In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or employee of any corporation, person, public utility, or municipality that owns any gas plant acting within the scope of official duties of employment shall in every case be considered the act, omission, or failure of such corporation, person, public utility, or municipality that owns any gas plant.

392.200. ADEQUATE SERVICE — JUST AND REASONABLE CHARGES — UNJUST DISCRIMINATION — UNREASONABLE PREFERENCE — REDUCED RATES PERMITTED FOR FEDERAL LIFELINE CONNECTION PLAN — DELIVERY OF TELEPHONE AND TELEGRAPH MESSAGES — CUSTOMER — SPECIFIC PRICING — TERM AGREEMENTS, DISCOUNT RATES. — 1. Every telecommunications company shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited and declared to be unlawful.

2. No telecommunications company shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to telecommunications or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to telecommunications under the same or substantially the same circumstances and conditions. Promotional programs for telecommunications services may be offered by telecommunications companies for periods of time so long as the offer is otherwise consistent with the provisions of this chapter and approved by the commission. Neither this subsection nor subsection 3 of this section shall be construed

to prohibit an economy rate telephone service offering. This section and section 392.220 to the contrary notwithstanding, the commission is authorized to approve tariffs filed by local exchange telecommunications companies which elect to provide reduced charges for residential telecommunications connection services pursuant to the lifeline connection assistance plan as promulgated by the federal communications commission. Eligible subscribers for such connection services shall be those as defined by participating local exchange telecommunications company tariffs.

3. No telecommunications company shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever except that telecommunications messages may be classified into such classes as are just and reasonable, and different rates may be charged for the different classes of messages.

4. (1) No telecommunications company may define a telecommunications service as a different telecommunications service based on the geographic area or other market segmentation within which such telecommunications service is offered or provided, unless the telecommunications company makes application and files a tariff or tariffs which propose relief from this subsection. Any such tariff shall be subject to the provisions of sections 392.220 and 392.230 and in any hearing thereon the burden shall be on the telecommunications company to show, by clear and convincing evidence, that the definition of such service based on the geographic area or other market within which such service is offered is reasonably necessary to promote the public interest and the purposes and policies of this chapter.

(2) It is the intent of this act to bring the benefits of competition to all customers and to ensure that incumbent and alternative local exchange telecommunications companies have the opportunity to price and market telecommunications services to all prospective customers in any geographic area in which they compete. To promote the goals of the federal Telecommunications Act of 1996, **for an alternative local exchange telecommunications company or for an incumbent local exchange telecommunications company in any exchange where an incumbent local exchange telecommunications company has been classified competitive under sections 392.245 and 392.361, an alternative local exchange telecommunications company has been certified and is providing basic local telecommunications services or switched exchange access services, or [for an alternative local exchange telecommunications company] an interconnected voice over Internet protocol service provider has been registered and is providing local voice service,** the commission shall review and approve or reject, within forty-five days of filing, tariffs for proposed different services as follows:

(a) For services proposed on an exchangewide basis, it shall be presumed that a tariff which defines and establishes prices for a local exchange telecommunications service or exchange access service as a different telecommunications service in the geographic area, no smaller than an exchange, within which such local exchange telecommunications service or exchange access service is offered is reasonably necessary to promote the public interest and the purposes and policies of this chapter;

(b) For services proposed in a geographic area smaller than an exchange or other market segmentation within which or to whom such telecommunications service is proposed to be offered, a local exchange telecommunications company may petition the commission to define and establish a local exchange telecommunications service or exchange access service as a different local exchange telecommunications service or exchange access service. The commission shall approve such a proposal unless it finds that such service in a smaller geographic area or such other market segmentation is contrary to the public interest or is contrary to the purposes of this chapter. Upon approval of such a smaller geographic area or such other market segmentation for a different service for one local exchange telecommunications company, all other local exchange telecommunications companies certified

to provide service in that exchange may file a tariff to use such smaller geographic area or such other market segmentation to provide that service;

(c) For proposed different services described in paragraphs (a) and (b) of this subdivision, the local exchange telecommunications company which files a tariff to provide such service shall provide the service to all similarly situated customers, upon request in accordance with that company's approved tariff, in the exchange or geographic area smaller than an exchange or such other market segmentation for which the tariff was filed, and no price proposed for such service by an incumbent local exchange telecommunications company, other than for a competitive service, shall be lower than its long-run incremental cost, as defined in section 386.020, RSMo;

(3) The commission, on its own motion or upon motion of the public counsel, may by order, after notice and hearing, define a telecommunications service offered or provided by a telecommunications company as a different telecommunications service dependent upon the geographic area or other market within which such telecommunications service is offered or provided and apply different service classifications to such service only upon a finding, based on clear and convincing evidence, that such different treatment is reasonably necessary to promote the public interest and the purposes and policies of this chapter.

5. No telecommunications company may charge a different price per minute or other unit of measure for the same, substitutable, or equivalent interexchange telecommunications service provided over the same or equivalent distance between two points without filing a tariff for the offer or provision of such service pursuant to sections 392.220 and 392.230. In any proceeding under sections 392.220 and 392.230 wherein a telecommunications company seeks to charge a different price per minute or other unit of measure for the same, substitutable, or equivalent interexchange service, the burden shall be on the subject telecommunications company to show that such charges are in the public interest and consistent with the provisions and purposes of this chapter. The commission may modify or prohibit such charges if the subject telecommunications company fails to show that such charges are in the public interest and consistent with the provisions and purposes of this chapter. This subsection shall not apply to reasonable price discounts based on the volume of service provided, so long as such discounts are nondiscriminatory and offered under the same rates, terms, and conditions throughout a telecommunications company's certificated or service area.

6. Every telecommunications company operating in this state shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made.

7. The commission shall have power to provide the limits within which telecommunications messages shall be delivered without extra charge.

8. Customer-specific pricing is authorized on an equal basis for incumbent and alternative local exchange companies, and for interexchange telecommunications companies for:

- (1) Dedicated, nonswitched, private line and special access services;
- (2) Central office-based switching systems which substitute for customer premise, private branch exchange (PBX) services; and
- (3) Any business service offered in an exchange in which basic local telecommunications service offered [to business customers] by the incumbent local exchange telecommunications company has been declared competitive under section 392.245, **and any retail business service offered to an end-user in a noncompetitive exchange.**

9. This act shall not be construed to prohibit the commission, upon determining that it is in the public interest, from altering local exchange boundaries, provided that the incumbent local exchange telecommunications company or companies serving each exchange for which the boundaries are altered provide notice to the commission that the companies approve the alteration of exchange boundaries.

10. Notwithstanding any other provision of this section, every telecommunications company is authorized to offer term agreements of up to five years on any of its telecommunications services.

11. Notwithstanding any other provision of this section, every telecommunications company is authorized to offer discounted rates or special promotions on any of its telecommunications services to any existing, new, and/or former customers.

12. Packages of services may be offered on an equal basis by incumbent and alternative local exchange companies and shall not be subject to regulation under section 392.240 or 392.245, nor shall packages of services be subject to the provisions of subsections 1 through 5 of this section, provided that each telecommunications service included in a package is available apart from the package of services and still subject to regulation under section 392.240 or 392.245. For the purposes of this subsection, a "package of services" includes more than one telecommunications service or one or more telecommunications service combined with one or more nontelecommunications service. **Any tariff to introduce a new package or to make any change to an existing package, except for the elimination of a package, shall be filed, on an informational basis, with the commission at least one day prior to the introduction of such new package or implementation of such change. Any tariff to eliminate an existing package shall be filed, on an informational basis, with the commission at least ten days prior to the elimination of the package.**

392.220. RATES, SCHEDULES, SUSPENSION OF, WHEN — REVOCATION OF CERTIFICATE OF SERVICE, PENALTY. — 1. Every telecommunications company shall print and file with the commission schedules showing the rates, rentals and charges for service of each and every kind by or over its facilities between points in this state and between each point upon its facilities and all points upon all facilities leased or operated by it and between each point upon its facilities or upon any facility leased or operated by it and all points upon the line of any other telecommunications company whenever a through service or joint rate shall have been established between any two points. If no joint rate over through facilities has been established, the several companies joined over such through facilities shall file with the commission the separately established rates and charges applicable where through service is afforded. Such schedule shall plainly state the places between which telecommunications service will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in any wise change, affect or determine any or the aggregate of the rates, rentals or charges for the service rendered. Such schedule shall be plainly printed and kept open to public inspection. The commission shall have the power to prescribe the form of every such schedule and may from time to time prescribe, by order, changes in the form thereof. The commission shall also have power to establish rules and regulations for keeping such schedules open to public inspection and may from time to time modify the same. Every telecommunications company shall file with the commission as and when required by it a copy of any contract, agreement or arrangement in writing with any other telecommunications company or with any other corporation, association or person relating in any way to the construction, maintenance or use of telecommunications facilities or service by or rates and charges over or upon any facilities.

2. Unless the commission otherwise orders, and except for the rates charged by a telephone cooperative for providing telecommunications service within an exchange or within a local calling scope as determined by the commission other than the rates for exchange access service, no change shall be made in any rate, charge or rental, or joint rate, charge or rental which shall have been filed by a telecommunications company in compliance with the requirements of sections 392.190 to 392.530, except after thirty days' notice to the commission, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rate, charge or rental shall go into effect; and all proposed changes shall be shown by filing new schedules or shall be plainly indicated upon the schedules filed and in force at the time and kept open to public inspection. The commission for good cause shown may allow changes in rates, charges or rentals without requiring the thirty days' notice, under such conditions as it may prescribe. All such changes shall be immediately indicated upon its

schedules by such telecommunications company. No telecommunications company shall charge, demand, collect or receive a different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time. No telecommunications company shall refund or remit directly or indirectly any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility other than such privileges and facilities as are contemplated by sections 392.200, 392.245, and 392.455, except such as are specified in its schedule filed and in effect at the time and regularly and uniformly extended to all persons and corporations under like circumstances for a like or substantially similar service.

3. No telecommunications company subject to the provisions of this law shall, directly or indirectly, give any free or reduced service, or any free pass or frank for the provision of telecommunications services between points within this state, except to its officers, employees, agents, surgeons, physicians, attorneys at law and their families; to persons or corporations exclusively engaged in charitable and eleemosynary work and ministers of religions; to officers and employees of other telegraph corporations and telephone corporations, railroad corporations and street railroad corporations; public education institutions, public libraries and not-for-profit health care institutions. This subsection shall not apply to state, municipal or federal contracts.

4. Any proposed rate or charge for any new telecommunications service which has not previously been provided by a telecommunications company to its Missouri customers may be suspended by the commission for a period not to exceed ~~[sixty]~~ **thirty** days from the proposed effective date of such proposed rate or charge. This subsection shall not be applicable to any new price or method of pricing for a service presently being offered by any telecommunications company to its Missouri customers. Upon proposing a rate or charge for a telecommunications service which has not previously been provided by a telecommunications company to its Missouri customers, the offeror must file with the commission its justification for considering such offering a new service and such other information as may be required by rule or regulation, and must identify that service as being noncompetitive, transitionally competitive or competitive. If the offeror is a noncompetitive or transitionally competitive telecommunications company and it proposes such service as a transitionally competitive or competitive telecommunications service, the telecommunications service shall be treated as a transitionally competitive telecommunications service until such time as the commission finally determines the appropriate classification. If the offeror is a competitive telecommunications company and it proposes such service as a competitive service, the competitive classification proposed by the offeror of the service shall apply until such time as the commission finally determines the appropriate classification. Such final determination by the commission of the appropriate classification of such service may be made by the commission after the end of the maximum ~~[sixty-day]~~ **thirty-day** suspension period, but any such decision by the commission issued after the maximum ~~[sixty-day]~~ **thirty-day** suspension period shall be prospective in nature. The commission shall expedite proceedings under this subsection in order to facilitate the rapid introduction of new telecommunications products and services into the marketplace.

5. Unless the commission otherwise orders, any change in rates or charges, or change in any classification or tariff resulting in a change in rates or charges, for any telephone cooperative shall be filed, on an informational basis, with the commission at least thirty days prior to the date for implementation of such change. Nothing contained in this section shall be construed as conferring jurisdiction upon the commission over the rates charged by a telephone cooperative for providing telecommunications service within an exchange or within a local calling scope as determined by the commission, except for exchange access service.

6. If after notice and hearing, the commission determines that a telecommunications company has violated the requirements of section 392.200 or this section, it may revoke the certificate of service authority under which that telecommunications company operates and shall direct its general counsel to initiate an action under section 386.600, RSMo, to recover penalties from such telecommunications company in an amount not to exceed the revenues received as

a result of such violation multiplied by three or the gross jurisdictional operating revenues of that company for the preceding twelve months, the provisions of section 386.570, RSMo, notwithstanding.

392.230. CHARGES FOR SHORT AND LONG DISTANCE SERVICE — POWER OF COMMISSION TO STAY INCREASED RATES — HEARING, REQUIREMENTS, SMALL TELEPHONE COMPANY, REQUIREMENTS. — 1. No telecommunications company subject to the provisions of this chapter shall charge or receive any greater compensation in the aggregate for the transmission of any interexchange telecommunications service offered or provided for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through interexchange telecommunications service than the aggregate of the intermediate rates or tolls subject to the provisions of this chapter; but this shall not be construed as authorizing any such telecommunications company to charge or receive as great a compensation for a shorter as for a longer distance.

2. Upon application to the commission, a telecommunications company may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telecommunications companies may be relieved from the operation and requirements of this section.

3. Whenever there shall be filed with the commission by any telecommunications company, other than a small telephone company, any schedule stating a new individual or joint rate, rental or charge, or any new individual or joint regulation or practice affecting any rate, rental or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested telecommunications company or companies, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, rental, charge, regulation or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the telecommunications company affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, rental, charge, regulation or practice, but not for a longer period than [one hundred and twenty] **sixty** days beyond the time when such rate, rental, charge, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, rental, charge, regulation or practice goes into effect, the commission may make such order in reference to such rate, rental, charge, regulation or practice as would be proper in a proceeding initiated after the rate, rental, charge, regulation or practice had become effective, however, if any such hearing cannot be concluded within the period of suspension, as above stated, the commission may, in its discretion, extend the time of suspension for a further period not exceeding [six months] **ninety days**.

4. For the purposes of this section, a "small telephone company" is defined as a local exchange telecommunications company which serves no more than twenty-five thousand subscriber access lines in the state of Missouri.

5. Whenever a small telephone company seeks to implement any new individual or joint rate, rental or charge, or any individual or joint regulation or practice affecting any rate, rental or charge, it shall file same with the commission and notify its customers of such change at least thirty days in advance of the date on which the new rate, rental, charge, regulation or practice is proposed to become effective. Upon the filing by a small telephone company of any new individual or joint rate, rental or charge, or any new individual or joint regulation or practice affecting any rate, rental or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested small telephone company or companies, but upon reasonable notice, to enter upon a hearing concerning the propriety of such

rate, rental, charge, regulation or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the small telephone company affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, rental, charge, regulation or practice, but not for a longer period than one hundred fifty days beyond the time when such rate, rental, charge, regulation or practice would otherwise go into effect. If the commission fails to issue its decision within the one-hundred-fifty-day suspension period, the investigation shall be closed and the rate, rental, charge, regulation or practice shall be considered approved for all purposes.

6. At any hearing involving a rate increased or a rate sought to be increased after the passage of this law, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the telecommunications company, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

392.245. COMPANIES TO BE REGULATED, WHEN — MAXIMUM PRICES, DETERMINED HOW, CHANGED HOW — CLASSIFICATION — CHANGE OF RATES — NONWIRELESS BASIC LOCAL TELECOMMUNICATIONS SERVICES, EXEMPT FROM MAXIMUM ALLOWABLE PRICES. — 1. The commission shall have the authority to ensure that rates, charges, tolls and rentals for telecommunications services are just, reasonable and lawful by employing price cap regulation. Any rate, charge, toll, or rental that does not exceed the maximum allowable price under this section shall be deemed to be just, reasonable, and lawful. As used in this chapter, "price cap regulation" shall mean establishment of maximum allowable prices for telecommunications services offered by an incumbent local exchange telecommunications company, which maximum allowable prices shall not be subject to increase except as otherwise provided in this section.

2. A large incumbent local exchange telecommunications company shall be subject to regulation under this section upon a determination by the commission that an alternative local exchange telecommunications company has been certified to provide basic local telecommunications service **or an interconnected voice over Internet protocol service provider has been registered to provide service under section 392.550**, and is providing such service in any part of the large incumbent company's service area. A small incumbent local exchange telecommunications company may elect to be regulated under this section upon providing written notice to the commission if an alternative local exchange telecommunications company has been certified to provide basic local telecommunications service **or an interconnected voice over Internet protocol service provider has been registered to provide service under section 392.550**, and is providing such service, or if two or more commercial mobile service providers providing wireless two-way voice communications services are providing services, in any part of the small incumbent company's service area, and the incumbent company shall remain subject to regulation under this section after such election.

3. Except as otherwise provided in this section, the maximum allowable prices established for a company under subsection 1 of this section shall be those in effect on December thirty-first of the year preceding the year in which the company is first subject to regulation under this section. Tariffs authorized under subsection 9 of this section shall be phased in as provided under such tariffs as approved by the commission.

4. (1) Except as otherwise provided in subsections 8 and 9 of this section and section 392.248, the maximum allowable prices for exchange access and basic local telecommunications services of a small, incumbent local exchange telecommunications company regulated under this section shall not be changed for a period of twelve months after the date the company is subject to regulation under this section. Except as otherwise provided in subsections 8 and 9 of this section and section 392.248, the maximum allowable prices for exchange access and basic local telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed prior to January 1, 2000. Thereafter, the

maximum allowable prices for exchange access and basic local telecommunications services of an incumbent local exchange telecommunications company shall be annually changed by [one of] the following methods:

(a) By the change in the [telephone service component of the] Consumer Price Index [(CPI-TS)] (**CPI**), as published by the United States Department of Commerce or its successor agency for the preceding twelve months; provided however, that if such a change in the [CPI-TS] (**CPI**) for the preceding twelve months is negative, upon request by the company and approval by the commission for good cause shown, the commission may waive any requirement to reduce prices of exchange access and basic local telecommunications service and those existing prices shall remain the maximum allowable prices for purposes of this section until the next annual change. All revenues that are attributable to a [CPI-TS] (**CPI**) reduction waiver shall be used for the purposes approved by the commission to benefit local exchange ratepayers in a specific exchange or exchanges, including but not limited to expanded local calling scopes; [or]

(b) [Upon request by the company and approval by the commission, by the change in the Gross Domestic Product Price Index (GDP-PI), as published by the United States Department of Commerce or its successor agency for the preceding twelve months, minus the productivity offset established for telecommunications service by the Federal Communications Commission and adjusted for exogenous factors.] **Notwithstanding the foregoing, upon a finding that a company that is subject to price-cap regulation has telecommunications services in one or more exchanges classified as competitive, the company may increase the maximum allowable rate for basic local telecommunications service in noncompetitive exchanges at a level not to exceed the statewide average for basic local telecommunications service in the competitively classified exchanges of that company, provided that any annual increase in rates for residential basic local telecommunications service shall not exceed two dollars per line per month for a period of four years.**

(2) The commission shall approve a change to a maximum allowable price or make a determination regarding a request for waiver filed pursuant to [paragraph (a) of] subdivision (1) of this subsection within forty-five days of filing of notice by the local exchange telecommunications company. An incumbent local exchange telecommunications company shall file a tariff to reduce the rates charged for any service in any case in which the current rate exceeds the maximum allowable price established under this subsection.

(3) [As a part of its request under paragraph (b) of subdivision (1) of this subsection, a company may seek commission approval to use a different productivity offset in lieu of the productivity offset established by the Federal Communications Commission. An adjustment under paragraph (b) of subdivision (1) of this subsection shall not be implemented if the commission determines, after notice and hearing to be conducted within forty-five days of the filing of the notice of a change to a maximum allowable price, that it is not in the public interest. In making such a determination, the commission shall consider the relationship of the proposed price of service to its cost and the impact of competition on the incumbent local exchange telecommunications company's intrastate revenues from regulated telecommunications services. Any adjustments for exogenous factors shall be allocated to the maximum allowable prices for exchange access and basic local telecommunications service in the same percentage as the revenues for such company bears to such company's total revenues from basic local, nonbasic and exchange access services for the preceding twelve months.

(4) For the purposes of this section, the term "exogenous factor" shall mean a cumulative impact on a local exchange telecommunications company's intrastate regulated revenue requirement of more than three percent, which is attributable to federal, state or local government laws, regulations or policies which change the revenue, expense or investment of the company, and the term "exogenous factor" shall not include the effect of competition on the revenue, expense or investment of the company nor shall the term include any assessment made under section 392.248.

(5)] An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of subsections 2 through 5 of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within [thirty] **ten** days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section.

5. Each telecommunications service offered to business customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in any exchange in which at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to business **or residential** customers within the exchange. Each telecommunications service offered to residential customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in an exchange in which at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to residential customers within the exchange. For purposes of this subsection **and not for purposes of defining the commission's jurisdiction:**

(1) Commercial mobile service providers as identified in 47 U.S.C. Section 332(d)(1) and 47 C.F.R. Parts 22 or 24 shall be considered as entities providing basic local telecommunications service, provided that only one such nonaffiliated provider shall be considered as providing basic local telecommunications service within an exchange. **If the commercial mobile service provider does not designate customers by business or residential class, such provider will be deemed to be providing service to both business and residential customers;**

(2) Any entity providing local voice service in whole or in part over telecommunications facilities or other facilities in which it or one of its affiliates have an ownership interest shall be considered as [a] **providing** basic local telecommunications service [provider] regardless of whether such entity is subject to regulation by the commission, **including any interconnected voice over Internet protocol service provider registered under section 392.550.** A provider of local voice service that requires the use of a third party, unaffiliated broadband network or dial-up Internet network for the origination of local voice service shall not be considered a basic local telecommunications service provider. For purposes of this subsection only, a "broadband network" is defined as a connection that delivers services at speeds exceeding two hundred kilobits per second in at least one direction;

(3) Regardless of the technology utilized, local voice service shall mean two-way voice service capable of receiving calls from a provider of basic local telecommunications services as defined by subdivision (4) of section 386.020, RSMo;

(4) Telecommunications companies only offering prepaid telecommunications service or only reselling telecommunications service as defined in subdivision [(46)] **(54)** of section 386.020, RSMo, in the exchange being considered for competitive classification shall not be considered entities providing basic telecommunications service; [and]

(5) "Prepaid telecommunications service" shall mean a local service for which payment is made in advance that excludes access to operator assistance and long distance service;

(6) Upon request of an incumbent local exchange telecommunications company seeking competitive classification of [business service or residential service, or both] **its services under this subsection**, the commission shall, within thirty days of the request, determine whether [the requisite number of entities are] **there are at least two entities** providing basic local telecommunications service [to business or residential customers, or both,] in an exchange and if so shall approve tariffs designating all such [business or residential] services other than exchange access service, as competitive within such exchange. Notwithstanding any other provision of this subsection, any incumbent local exchange company may petition the commission for competitive classification within an exchange based on competition from any entity providing local voice service in whole or in part by using its own telecommunications facilities or other facilities or the telecommunications facilities or other facilities of a third party,

including those of the incumbent local exchange company as well as providers that rely on an unaffiliated third-party Internet service. The commission shall approve such petition within sixty days [unless it finds that such competitive classification is contrary to the public interest]. The commission shall maintain records of [regulated] **certified and registered** providers of local voice service, including those [regulated] providers who provide local voice service over their own facilities, or through the use of facilities of another provider of local voice service. In reviewing an incumbent local exchange telephone company's request for competitive status in an exchange, the commission shall consider their own records concerning ownership of facilities and shall make all inquiries as are necessary and appropriate from [regulated] **certified and registered** providers of local voice service to determine the extent and presence of [regulated] local voice providers in an exchange. If the services of an incumbent local exchange telecommunications company are classified as competitive under this subsection, the local exchange telecommunications company may thereafter adjust its rates for such competitive services upward or downward as it determines appropriate in its competitive environment, upon filing tariffs which shall become effective within the time lines identified in section 392.500. The commission [shall] **may**, [at least] **not more than once** every two years[, or where an incumbent local exchange telecommunications company increases rates for basic local telecommunications services in an exchange classified as competitive,] review those exchanges where an incumbent local exchange carrier's services have been classified as competitive, to determine if the conditions of this subsection for competitive classification continue to exist in the exchange and if the commission determines, after hearing, that such conditions no longer exist for the incumbent local exchange telecommunications company in such exchange, it shall reimpose upon the incumbent local exchange telecommunications company, in such exchange, the provisions of paragraph (c) of subdivision (2) of subsection 4 of section 392.200 and the **new** maximum allowable prices **for basic local telecommunications service in such exchange shall be** established by the provisions of [subsections] **subsection 4** [and 11] of this section[, and, in any such case, the maximum allowable prices established for the telecommunications services of such incumbent local exchange telecommunications company shall reflect all index adjustments which were or could have been filed from all preceding years since the company's maximum allowable prices were first adjusted pursuant to subsection 4 or 11 of this section.] ;

(7) **Upon a finding that fifty-five percent or more of an incumbent local exchange telecommunications company's total subscriber access lines are in exchanges where such company's services have been declared competitive, the incumbent local exchange telecommunications company shall be deemed competitive and shall no longer be subject to price-cap regulation, except that rates charged for basic local telecommunications service in exchanges that were noncompetitive immediately prior to this finding can be increased to a rate that is no higher than the statewide average rate for basic local telecommunications service in the incumbent local exchange company's competitively classified exchanges for a period of four years. During the four year period, any annual increase in rates for residential basic local telecommunications service shall not exceed two dollars per line per month. Rates charged for exchange access service by an incumbent local exchange telecommunications company deemed competitive shall not exceed the rates charged at the time the company was deemed competitive;**

(8) **An incumbent local exchange telecommunications company deemed competitive under this section and all alternative local exchange telecommunications companies shall not be required to comply with customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels established by the commission, but shall be subject to commission authority to hear and resolve customer complaints to the extent the customer complaint is based on Truth-in-Billing regulations established by the Federal Communications Commission, or network engineering and maintenance standards established within the National Electric Safety Code. In addition, the commission shall continue to have authority**

to hear and resolve customer complaints to the extent such complaints are based on a failure to comply with the provisions of applicable tariffs, or a failure to comply with the rules of the commission other than those rules related to customer billing, network engineering and maintenance, and service objectives and surveillance levels or a failure to provide service in a manner that is safe, adequate, usual and customary in the telecommunications industry;

(9) The commission may reimpose its customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels, as applicable, on an incumbent local exchange telecommunications company that has been deemed competitive under this section, only upon a finding that the incumbent local exchange telecommunications company has engaged in a pattern or practice of inadequate service in these subject areas and that the reimposition of such rules is necessary to ensure the protection of consumer rights and/or the public safety. Prior to formal notice and hearing, the commission shall notify the incumbent local exchange telecommunications company of any deficiencies and provide such company an opportunity to remedy such deficiencies in a reasonable amount of time, but not less than sixty days. Should the incumbent local exchange telecommunications company remedy such deficiencies within a reasonable amount of time, the commission shall not reimpose the applicable customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels. Should the incumbent local exchange telecommunications company fail to remedy such deficiencies, the commission shall reimpose the applicable customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels, if it finds that:

(a) The reimposition of such rules is necessary for the protection of the majority of the incumbent local exchange telecommunications company's customers or for the public safety;

(b) No alternative or less burdensome action is adequate to protect the majority of the incumbent local exchange telecommunications company's customers; and

(c) Competitive market forces have been and will continue to be insufficient to protect the majority of the incumbent local exchange telecommunications company's customers;

(10) Should the commission determine that an emergency exists that impacts public safety or is essential for the protection of a majority of customers of all local exchange telecommunications companies operating in this state, the commission may, on an emergency basis, impose its customer billing rules, network engineering and maintenance rules, and rules requiring the recording and submitting of service objectives or surveillance levels, as applicable, on all local exchange telecommunications companies on a uniform and non-discriminatory basis through the promulgation of emergency rules pursuant to section 536.025, RSMo. The commission shall only promulgate such emergency rules after determining that:

(a) The rules are essential for the protection of a majority of customers of local exchange telecommunications companies operating in this state;

(b) No alternative or less burdensome mechanism will suffice to protect the majority of customers of local exchange telecommunications companies operating in this state; and

(c) Competitive market forces have been and will continue to be insufficient to protect the majority of customers of local exchange telecommunications companies operating in this state.

Notwithstanding the provisions of subsection 7 of section 536.025, RSMo, emergency rules promulgated by the commission pursuant to this subdivision shall remain in effect until the legislature concludes its next regular legislative session following the imposition of any such rules.

6. Nothing in this section shall be interpreted to alter the commission's jurisdiction over quality and conditions of [service] **noncompetitive telecommunications services** or to relieve **noncompetitive** telecommunications companies from the obligation to comply with commission rules relating to minimum basic local and interexchange telecommunications service.

7. A company regulated under this section shall not be subject to regulation under subsection 1 of section 392.240.

8. An incumbent local exchange telecommunications company regulated under this section may reduce intrastate access rates, including carrier common line charges, subject to the provisions of subsection 9 of this section, to a level not to exceed one hundred fifty percent of the company's interstate rates for similar access services in effect as of December thirty-first of the year preceding the year in which the company [is] first [subject to regulation under this section] **exercises its option to rebalance rates under this subsection**. [Absent commission action under subsection 10 of this section, an incumbent local exchange telecommunications company regulated under this section shall have four years from the date the company becomes subject to regulation under this section to make the adjustments authorized under this subsection and subsection 9 of this section.] Nothing in this subsection shall preclude an incumbent local exchange telecommunications company from establishing its intrastate access rates at a level lower than one hundred fifty percent of the company's interstate rates for similar access services in effect as of December thirty-first of the year preceding the year in which the company [is] first [subject to regulation under this section] **exercises its option to rebalance rates under this subsection**.

9. Other provisions of this section to the contrary notwithstanding [and no earlier than January 1, 1997], the commission shall allow an incumbent local exchange telecommunications company regulated under this section which reduces its intrastate access service rates pursuant to subsection 8 of this section to offset the **annual** revenue loss resulting from [the first year's] **its** access service rate reduction by increasing **each year** its monthly maximum allowable prices applicable to basic local exchange telecommunications services by an amount not to exceed one dollar fifty cents. A large incumbent local exchange telecommunications company shall not increase its monthly rates applicable to basic local telecommunications service under this subsection unless it also reduces its rates for intraLATA interexchange telecommunications services by at least ten percent **in the year it first exercises its option to rebalance rates under subsection 8 of this section**. [No later than one year after the date the incumbent local exchange telecommunications company becomes subject to regulation under this section, the commission shall complete an investigation of the cost justification for the reduction of intrastate access rates and the increase of maximum allowable prices for basic local telecommunications service. If the commission determines that the company's monthly maximum allowable average statewide prices for basic local telecommunications service after adjustment pursuant to this subsection will be equal to or less than the long-run incremental cost, as defined in section 386.020, RSMo, of providing basic local telecommunications service and that the company's intrastate access rates after adjustment pursuant to this subsection will exceed the long-run incremental cost, as defined in section 386.020, RSMo, of providing intrastate access services, the commission shall allow the company to offset the revenue loss resulting from the remaining three-quarters of the total needed to bring that company's intrastate access rates to one hundred fifty percent of the interstate level by increasing the company's monthly maximum allowable prices applicable to basic local telecommunications service by an amount not to exceed one dollar fifty cents on each of the next three anniversary dates thereafter; otherwise, the commission shall order the reduction of intrastate access rates and the increase of monthly maximum allowable prices for basic local telecommunications services to be terminated at the levels the commission determines to be cost-justified.] The total **annual** revenue increase due to the increase to the monthly maximum allowable prices for basic local telecommunications service shall not exceed the total **annual** revenue loss resulting from the reduction to intrastate access service rates.

10. Any telecommunications company whose intrastate access costs are reduced pursuant to subsections 8 and 9 of this section shall decrease its rates for intrastate toll telecommunications service to flow through such reduced costs to its customers. The commission may permit a telecommunications company to defer a rate reduction required by this subdivision until such reductions, on a cumulative basis, reach a level that is practical to flow through to its customers.

11. [The maximum allowable prices for nonbasic telecommunications services of a small, incumbent local exchange telecommunications company regulated under this section shall not be changed until twelve months after the date the company is subject to regulation under this section or, on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local telecommunications service in such exchange, whichever is earlier. The maximum allowable prices for nonbasic telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed until January 1, 1999, or on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local telecommunications service in such exchange, whichever is earlier. Thereafter, the maximum allowable prices for nonbasic telecommunications services of an incumbent local exchange telecommunications company may be annually increased by up to five percent for each of the following twelve-month periods upon providing notice to the commission and filing tariffs establishing the rates for such services in such exchanges at such maximum allowable prices. This subsection shall not preclude an incumbent local exchange telecommunications company from proposing new telecommunications services and establishing prices for such new services. An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of subsections 2 through 5 of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within thirty days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section.] **All nonbasic telecommunications services of an incumbent local exchange telecommunications company that is subject to price-cap regulation shall be exempt from limitations on maximum allowable prices.**

12. The commission shall permit an incumbent local exchange telecommunications company regulated under this section to determine and set its own depreciation rates which shall be used for all intrastate regulatory purposes. Provided, however, that such a determination is not binding on the commission in determining eligibility for or reimbursement under the universal service fund established under section 392.248.

13. Prior to January 1, 2006, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications services as of August 28, 2005. The commission shall likewise determine the weighted, statewide average rate of nonwireless basic local telecommunications services two years and five years after August 28, 2005. The commission shall report its findings to the general assembly by January 30, 2008, and provide a second study by January 30, 2011. If the commission finds that the weighted, statewide average rate of nonwireless basic local telecommunications service in 2008 or 2011 is greater than the weighted, statewide average rate of nonwireless basic local telecommunications service in 2006 multiplied by one plus the percentage increase in the Consumer Price Index for all goods and services for the study periods, the commission shall recommend to the general assembly such changes in state law as the commission deems appropriate to achieve the purposes set forth in section 392.185. In determining the weighted, statewide average rate of nonwireless basic local telecommunications service, the commission shall exclude rate increases to nonwireless basic telecommunications service permitted under subsections 8 and 9 of this section and section 392.240 or exogenous costs incurred by the providers of nonwireless basic local telecommunications service.

392.361. CLASSIFICATION OF TELECOMMUNICATIONS COMPANY, SERVICES — PROCEDURE — EFFECT OF CLASSIFICATION. — 1. As an alternative to the provisions of section 392.245, a telecommunications company, including price-cap regulated companies, may file with the commission a petition to be classified as a competitive telecommunications company or a transitionally competitive telecommunications company under this section, or to have services classified as competitive or transitionally competitive telecommunications services under this section. [The office of public counsel may initiate classification proceedings by petition. The commission may initiate classification proceedings on its own motion. The commission may require all telecommunications companies potentially affected by a classification proceeding to appear as parties for a determination of their interests.]

2. The commission [or a petitioner] shall serve by regular mail a copy of any petition or motion filed under subsection 1 of this section on all telecommunications companies that have applied for authority to provide or are authorized to provide intrastate telecommunications service within this state. In response to a petition filed [or a proceeding instituted upon its own motion], the commission shall afford all interested persons reasonable notice and an opportunity to be heard to determine whether a telecommunications company or service may be subject to sufficient competition to justify a lesser degree of regulation. In making this determination, the commission shall, within nine months of the filing of the petition [or initiation of a proceeding] under this section, consider all relevant factors and shall issue written findings of fact delineating all factors considered. [The commission may, for good cause, extend the time for determination for an additional three months. A second extension period not exceeding three months may, for good cause, be granted by the commission.] In any hearing involving the same telecommunications service or company, the commission may, if appropriate and if no new finding of fact is required, rely on a finding of fact made in a prior hearing.

3. The commission may classify a telecommunications company as a competitive telecommunications company [only] upon a finding that [all] a **majority of its** telecommunications services offered by such company are competitive telecommunications services.

4. If, after following the procedures required under subsection 2 of this section, the commission determines that a telecommunications service is subject to sufficient competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest it may, by order, classify:

(1) The subject telecommunications service offered by a telecommunications company as a competitive telecommunications service;

(2) The subject telecommunications service offered by a noncompetitive or transitionally competitive telecommunications company as a transitionally competitive telecommunications service;

(3) The subject telecommunications company, subject to the condition set forth in subsection 3 of this section, as a competitive telecommunications company; or

(4) The subject interexchange telecommunications company as a transitionally competitive telecommunications company.

5. By its order classifying a telecommunications service as competitive or transitionally competitive or a telecommunications company as competitive or transitionally competitive, the commission may, with respect to that service or company and with respect to one or more providers of that service, suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340, except as provided in section 392.390. [The commission may suspend different requirements for different telecommunications companies, if such different treatment is reasonable and not detrimental to the public interest.]

6. If the commission suspends the application of a statutory requirement under this section, it may require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement. **The**

exchange access rates of an incumbent local exchange company that is declared a competitive telecommunications company shall not exceed the rates that were charged at the time the company became a competitive telecommunications company. The exchange access rates of an alternative local exchange company shall not exceed the exchange access rates of the incumbent local exchange company against whom the alternative local exchange company is competing.

7. [If necessary to protect the public interest, the commission may at any time, by order, after hearing upon its own motion or petition filed by the public counsel, a telecommunications company, or any person or persons authorized to file a complaint as to the reasonableness of any rates or charges under section 386.390, RSMo, reimpose or modify the statutory provisions suspended under subsection 5 of this section upon finding that the company or service is no longer competitive or transitionally competitive or that the lesser regulation previously authorized is no longer in the public interest or no longer consistent with the provisions and purposes of this chapter.

8.] A telecommunications company may file a petition to have a telecommunications service it then offers classified as competitive or transitionally competitive under this section no more than once every two years, unless exceptional circumstances are demonstrated. A telecommunications company shall consolidate in a single petition all telecommunications services the company then offers which it seeks to classify as competitive or transitionally competitive within two years from the date such petition is filed, unless the commission determines, for good cause shown, that a waiver of this provision should be granted.

8. Notwithstanding the foregoing or the provisions of section 392.245, intrastate operator and directory services, including directory assistance services, shall be deemed competitive on a statewide basis for all local exchange telecommunications companies.

392.370. TRANSITIONALLY COMPETITIVE TELECOMMUNICATIONS SERVICES, CLASSIFIED WHEN. — [1.] After the effective date of an order of the commission which finds, pursuant to section 392.361, that a telecommunications service is sufficiently competitive to justify a lesser degree of regulation, the same, substitutable, or equivalent service offered by a transitionally competitive or noncompetitive telecommunications company shall be classified as transitionally competitive [pursuant to the procedure set out in subsection 2 of section 392.490], if the telecommunications service granted a lesser degree of regulation is authorized to be provided anywhere within the certificated or service area of the transitionally competitive or noncompetitive telecommunications company. Any transitionally competitive telecommunications service offered by a noncompetitive local exchange telecommunications company shall be classified as a competitive telecommunications service no later than three years after the effective date of a tariff for such service bearing the classification "transitionally competitive". Any transitionally competitive service offered by a transitionally competitive interexchange telecommunications company shall be classified as a competitive telecommunications service no later than two years after the effective date of a tariff for such service bearing the classification "transitionally competitive". **The exchange access rates of an incumbent local exchange company that is declared a competitive telecommunications company shall not exceed the rates that were charged at the time the company became a competitive telecommunications company. The exchange access rates of an alternative local exchange company shall not exceed the exchange access rates of the incumbent local exchange company against whom the alternative local exchange company is competing.**

[2. The commission may extend or reinstate a transitionally competitive service classification applicable to any service provided by a noncompetitive local exchange telecommunications company for two periods in addition to the initial three-year period, each additional period not to exceed three years, after notice and hearing, upon the issuance of an order finding that a competitive classification for such service is not in the public interest or not consistent with the purposes and policies of this chapter. The commission may extend or

reinstate a transitionally competitive service classification applicable to any service provided by a transitionally competitive interexchange telecommunications company for two periods in addition to the initial two-year period, each additional period not to exceed two years, after notice and hearing, upon the issuance of an order finding that a competitive classification for such service is not in the public interest or not consistent with the purposes and policies of this chapter. The commission, on its own motion, or public counsel or any telecommunications company, by complaint, may initiate a proceeding in which the commission shall consider whether to extend or reinstate a transitionally competitive service classification under this section. In any proceeding initiated under this subsection by the commission or the public counsel, the burden to prove that such service is a competitive telecommunications service shall be on the noncompetitive or transitionally competitive telecommunications company providing such service. The commission may consolidate different proceedings under this section involving different transitionally competitive telecommunications services for purposes of hearing.

3. The commission may issue an order, effective at or after such time as the commission may no longer extend or reinstate a transitionally competitive service classification, that reclassifies a competitive or transitionally competitive telecommunications service as a noncompetitive telecommunications service if the commission, after notice and hearing upon its own motion or petition filed by the public counsel, a telecommunications company, or any person or persons authorized to file a complaint as to the reasonableness of any rates or charges under section 386.390, RSMo, determines that a competitive classification for such service is not in the public interest or not consistent with the provisions and purposes of this chapter. Should the commission issue an order under this subsection reclassifying a competitive or transitionally competitive telecommunications service as noncompetitive it shall thereafter apply equal regulation, with respect to such service, to all telecommunications companies providing the same equivalent or substitutable telecommunications service.

4. No tariff which proposes a new rate, rental, or charge or new regulation or practice affecting any rate, rental, or charge for a transitionally competitive telecommunications service which is filed by a noncompetitive local exchange telecommunications company, or a noncompetitive or transitionally competitive interexchange telecommunications company, shall be effective unless and until the noncompetitive local exchange telecommunications company, or the noncompetitive or transitionally competitive interexchange telecommunications company, offering or providing, or seeking to offer or provide, such proposed transitionally competitive telecommunications service prepares and files a study of the cost of providing such service. Such study may in the commission's discretion be given proprietary treatment at the request of such company.

5. Except as provided in subsection 6 of this section, the provisions of sections 392.220 and 392.230 shall apply to any tariff filed for the offer or provision of a transitionally competitive telecommunications service.

6. So long as a transitionally competitive interexchange telecommunications company charges the same price per minute or other unit of measure for the same, equivalent, or substitutable interexchange telecommunications service provided over the same or equivalent distance between any two points, the provisions of subsections 4 and 5 of this section shall not apply to such transitionally competitive interexchange telecommunications company for any proposed decrease in rates for a transitionally competitive interexchange telecommunications service. Such proposed decrease shall instead be treated as a competitive service pursuant to section 392.500.

7. A transitionally competitive telecommunications service which becomes a competitive telecommunications service pursuant to this section or section 392.361 shall no longer be subject to the provisions of subsections 4, 5, and 6 of this section and any increase or decrease in rates or charges applicable to such competitive service shall be treated pursuant to section 392.500.]

392.420. REGULATIONS, MODIFICATION OF, COMPANY MAY REQUEST BY PETITION, WHEN — WAIVER, WHEN. — The commission is authorized, in connection with the issuance or modification of a certificate of interexchange or local exchange service authority or the modification of a certificate of public convenience and necessity for interexchange or local exchange telecommunications service, to entertain a petition [under section 392.361 and in accordance with the procedures set out in section 392.361,] to suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter. **In the case of an application for certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340. Notwithstanding any other provision of law in this chapter and chapter 386, RSMo, where an alternative local exchange telecommunications company is authorized to provide local exchange telecommunications services in an incumbent local exchange telecommunications company's authorized service area, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected. In addition, where an interconnected voice over Internet protocol service provider is registered to provide service in an incumbent local exchange telecommunications company's authorized service area under section 392.550, the incumbent local exchange telecommunications company may opt into all or some of the above-listed statutory and commission rule waivers by filing a notice of election with the commission that specifies which waivers are elected. The commission may reimpose its quality of service and billing standards rules, as applicable, on an incumbent local exchange telecommunications company but not on a company granted competitive status under subdivision (7) of subsection 5 of section 392.245 in an exchange where there is no alternative local exchange telecommunications company or interconnected voice over Internet protocol service provider that is certificated or registered to provide local voice service only upon a finding, following formal notice and hearing, that the incumbent local exchange telecommunications company has engaged in a pattern or practice of inadequate service. Prior to formal notice and hearing, the commission shall notify the incumbent local exchange telecommunications company of any deficiencies and provide such company an opportunity to remedy such deficiencies in a reasonable amount of time, but not less than sixty days. Should the incumbent local exchange telecommunications company remedy such deficiencies within a reasonable amount of time, the commission shall not reimpose its quality of service or billing standards on such company.**

392.450. REQUIREMENTS, APPROVAL OF CERTIFICATES — COMMISSION TO ADOPT RULES — MODIFICATION, WHEN — FEDERAL LAW NOT PREEMPTED. — 1. The commission shall approve an application for a certificate of local exchange service authority to provide basic local telecommunications service or for the resale of basic local telecommunications service only upon a showing by the applicant, and a finding by the commission, after notice and hearing that the applicant has complied with the certification process established pursuant to section 392.455.

2. In addition, the commission shall adopt such rules, consistent with section 253(b) of the federal Telecommunications Act of 1996 to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. Such rules, at a minimum, shall require that all applicants seeking a certificate to provide basic local telecommunications services under this section:

(1) File and maintain tariffs with the commission in the same manner and form as the commission requires of the incumbent local exchange telecommunications company with which the applicant seeks to compete; and

(2) Meet the minimum service standards[, including quality of service and billing standards,] as the commission requires of the incumbent local exchange telecommunications company with which the applicant seeks to compete.

3. An alternative local exchange telecommunications company which possesses a certificate of service authority to provide basic local telecommunications service as of August 28, 2008, in some but not all exchanges of the state may request the commission to modify its existing certificate to include some or all of the remaining exchanges in the state. The commission shall grant such request within thirty days of its filing as long as the alternative local exchange telecommunications company is in good standing, in all respects, with all applicable commission rules and requirements.

4. Nothing in this chapter or in chapter 386, RSMo, is intended to alter the rights and obligations arising under federal law, including the interconnection and unbundling provisions of 47 U.S.C. Sections 251 and 252, irrespective of the type of technology being used by the requesting local exchange telecommunications company and whether the local exchange telecommunications company is providing telecommunications service or interconnected voice over Internet protocol service, as those terms are defined in chapter 386, RSMo, and the jurisdiction and authority of the commission to mediate and arbitrate disputes arising under said federal law provisions shall remain unaffected.

392.451. STATE ADOPTS FEDERAL EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES. — [1. Notwithstanding any provisions of this act to the contrary, and consistent with section 253(f) of the federal Telecommunications Act of 1996, the commission shall approve an application for a certificate of local exchange service authority to provide basic local telecommunications service or for the resale of basic local telecommunications service in an area that is served by a small incumbent local exchange telecommunications company only upon a showing by the applicant, and a finding by the commission, after notice and hearing, that:

(1) The applicant shall, throughout the service area of the incumbent local exchange telecommunication company, offer all telecommunications services which the commission has determined are essential for purposes of qualifying for state universal service fund support; and

(2) The applicant shall advertise the availability of such essential services and the charges therefor using media of general distribution.

2. In addition, the commission shall adopt such rules, consistent with section 253(b) of the federal Telecommunications Act of 1996 to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. Such rules, at a minimum, shall require that all applicants seeking a certificate to provide basic local telecommunications services under this section:

(1) File and maintain tariffs with the commission in the same manner and form as the commission requires of the incumbent local exchange telecommunications company with which the applicant seeks to compete;

(2) Meet the minimum service standards, including quality of service and billing standards, as the commission requires of the incumbent local exchange telecommunications company with which the applicant seeks to compete;

(3) Make such reports to and other information filings with the commission as is required of the incumbent local exchange telecommunications company with which the applicant seeks to compete; and

(4) Comply with all of the same rules and regulations as the commission may impose on the incumbent local exchange telecommunications company with which the applicant seeks to compete.

3.] The state of Missouri hereby adopts and incorporates in total the provisions of section 251(f)(1) of the federal Telecommunications Act of 1996 providing exemption for certain rural telephone companies.

392.480. SERVICES TO BE OFFERED UNDER TARIFF. — [1.] Except as provided in section 392.520, all telecommunications services offered or provided by telecommunications companies shall be offered under tariff and classified as either competitive, transitionally competitive, or noncompetitive telecommunications services, subject to proper certification and other applicable provisions of this chapter. Any tariff filed with the commission shall indicate whether the telecommunications service to be offered or provided is competitive, transitionally competitive, or noncompetitive.

[2. Subject to the provisions of subsection 4 of section 392.220, an offering or the provision of a telecommunications service shall be classified as competitive only if, and only to the extent that, the commission has issued an order to that effect pursuant to section 392.361 or pursuant to its findings issued in an order granting or modifying a certificate of authority or certificate of public convenience and necessity pursuant to section 392.410 or if, and only to the extent that, a transitionally competitive telecommunications service has become a competitive telecommunications service pursuant to section 392.370. Subject to the provisions of subsection 4 of section 392.220, an offering or the provision of a telecommunications service shall be classified as transitionally competitive only if, and only to the extent that, the commission has issued an order to that effect pursuant to section 392.361 or pursuant to its findings issued in an order granting or modifying a certificate of authority or certificate of public convenience and necessity pursuant to section 392.410 or if, and only to the extent that, a telecommunications service has become a transitionally competitive telecommunications service pursuant to subsection 1 of section 392.370 and subsection 2 of section 392.490. All telecommunications services not properly classified as competitive or transitionally competitive shall be classified as noncompetitive telecommunications service.]

392.510. TARIFFS, BANDS AND RANGES ALLOWED, WHEN, REQUIREMENTS. — 1. Telecommunications companies may file proposed tariffs for any competitive or transitionally competitive telecommunications service, which includes and specifically describes a range, or band, setting forth a maximum and minimum rate within which range a change in rates or charges for such telecommunications service could be made without prior notice or prior commission approval.

2. The commission may approve such a proposed tariff for a transitionally competitive service only if a noncompetitive or transitionally competitive telecommunications company demonstrates, and the commission finds, that any and all rates or charges within the band or range, are consistent with the public interest and the provisions and purposes of this chapter. To the extent any proposed band or range encompasses rates or charges which are not consistent with the public interest and the provisions and purposes of this chapter, the commission shall have the power, upon notice and after hearing, to modify the level, scope or limits of such band or range, as necessary, to ensure that rates or charges resulting therefrom are consistent with the public interest and the provisions and purposes of this chapter.

3. The provisions of sections 392.220, 392.230, [subsections 4 and 5 of section 392.370,] and [section] 392.500 shall not apply to any rate increase or decrease within the band or range authorized pursuant to this section. A telecommunications company shall file written notice of the rate change and its effective date with the commission within ten days after the effective date of any increase or decrease authorized pursuant to this section.

4. Any tariffs that have been approved by the commission prior to September 28, 1987, which establish a range or band of rates within which range or band of rates a change in rates or charges for such telecommunications service could be made without prior notice or prior commission approval shall be deemed approved by the commission. The provisions of sections

392.220, 392.230, [subsections 4 and 5 of section 392.370,] and [section] 392.500 shall not apply to any rate increase or decrease within such band or range.

392.520. PRIVATE SHARED TENANT SERVICES, COIN OPERATED TELEPHONE SERVICES, REGULATION OF. — 1. The commission shall have jurisdiction over the provision of private shared tenant services and customer owned coin telephone telecommunications services, but shall subject such services to the minimum regulation permitted by this chapter for competitive telecommunications services. The commission shall exempt the provision of private shared and customer owned coin telephone telecommunications services from the tariff filing requirements of sections 392.220, 392.230, [subsections 4 and 5 of section 392.370,] and [section] 392.500 and may exempt the provision of such telecommunications services from the provisions of subdivisions (1) and (3) of section 392.390 and from the provisions of section 386.370, RSMo.

2. The commission shall establish the rates or charges and terms of connection for access by such services to the local exchange network. In so doing, the commission shall consider the network integrity of the principal provider of local exchange service and the impact of private shared tenant services on the cost to provide, and rates or charges, for local exchange service. If the commission finds, upon notice and investigation, that tenants in private shared tenant services locations have no alternative access to a local exchange telecommunications company providing basic local telecommunications service, it may require the private shared tenant services provider to make alternative facilities available on reasonable terms and conditions at reasonable prices.

392.550. INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICE, REGISTRATION REQUIRED — CHARGES TO APPLY — PROCEDURE FOR REGISTRATION — AUTHORITY OF COMMISSION. — 1. No person, corporation, or other entity shall offer or provide interconnected voice over Internet protocol service as defined in section 386.020, RSMo, without first having obtained a registration from the commission allowing it to do so. Upon application, the commission shall grant a registration to any person, corporation, or other entity to provide interconnected voice over Internet protocol service, subject to the provisions of this section.

2. Interconnected voice over Internet protocol service shall be subject to appropriate exchange access charges to the same extent that telecommunications services are subject to such charges. Until January 1, 2010, this subsection shall not alter intercarrier compensation provisions specifically addressing interconnected voice over Internet protocol service contained in an interconnection agreement approved by the commission pursuant to 47 U.S.C. Section 252 and in existence as of August 28, 2008.

3. The commission shall grant a registration, without a hearing and no later than thirty days following the filing of an application accompanied by an affidavit signed by an officer or general partner of the applicant stating the following:

(1) The location of the principal place of business and the names of the principal executive officers of the applicant;

(2) Each exchange, in whole or in part, of a local exchange company in which the applicant proposes to provide interconnected voice over Internet protocol service;

(3) That the applicant is legally, financially, and technically qualified to provide interconnected voice over Internet protocol services;

(4) That the applicant is ready, willing, able, and will comply with all applicable state and federal laws and regulations imposed upon providers of interconnected voice over Internet protocol services;

(5) That the applicant will charge and collect from its end-user customers on interconnected voice over Internet protocol service, and remit to the appropriate authority, fees and surcharges in the same manner as are charged and collected upon end

user customers of local exchange telecommunications service and remitted by local exchange telecommunications companies, including but not necessarily limited to:

- (a) Telecommunications programs under section 209.255, RSMo;
- (b) Missouri universal service fund under section 392.248;
- (c) Local enhanced 911;
- (d) Any applicable license tax;
- (6) That the applicant will remit the annual assessment imposed by the commission under section 386.370, RSMo;

(7) That the applicant will file, either directly or indirectly through an affiliated competitive local exchange carrier, with the commission an annual report at a time and covering the yearly period fixed by the commission. Verification shall be made by the official holding office at the time of the filing of such report, and if not made upon the knowledge of the person verifying, the same shall set forth in general terms the sources of his or her information and the grounds for his or her belief as to any matters not stated to be verified on his or her knowledge. Such annual report shall be verified by the oath of the president, treasurer, general manager, or receiver, if any, of any of such companies, or by the person required to file the same. The commission shall prescribe the form of such reports and the character of the information to be contained therein; provided, however, that such form and character of the information to be provided shall be limited to:

- (a) Information necessary to enable the commission to determine the assessment of the fees and surcharges set forth in subdivisions (5) and (6) of this subsection;
- (b) A list of all Missouri exchanges, in whole or in part, in which customers are served; and
- (c) The number of customers or lines served in each exchange. The commission shall maintain such information as proprietary and not available to the public; and
- (8) That the applicant has established a process for handling inquiries from customers concerning billing issues, service issues, and other consumer-related complaints.

4. Notwithstanding any other provision of law to the contrary, the public service commission shall have the following authority with respect to providers of interconnected voice over Internet protocol service and their provision of such service:

- (1) To assess and collect fees to support telecommunications programs under section 209.255, RSMo;
- (2) To assess and collect fees to support the Missouri universal service fund under section 392.248;
- (3) To assess and collect fees to support the operations of the commission under section 386.370, RSMo;
- (4) To assess and collect fees and surcharges under subdivisions (5) and (6) of subsection 3 of this section;
- (5) To hear and resolve complaints under sections 386.390 and 386.400, RSMo, regarding the payment or nonpayment for exchange access services regardless of whether a user of exchange access service has been certificated or registered by the commission and regardless of whether the commission otherwise has authority over such user. This subdivision shall not grant the commission authority to review rates for exchange access services that are set under section 392.245; and
- (6) To revoke or suspend the registration of any provider of interconnected voice over Internet protocol service who fails to comply with the requirements of this section.

[319.036. EXCEPTION TO EXCAVATION NOTIFICATION REQUIREMENTS FOR AGRICULTURAL PROPERTY, WHEN.] — Any person owning or leasing agricultural property shall not be required to make notice of excavation required by section 319.022 for excavations on such property, if such excavation is not in the proximity of an underground facility which is

marked with an aboveground placard or line marker and is not in the proximity of a utility easement known to that person. For purposes of this section "agricultural property" means any property used to produce an agricultural product as defined by section 348.400, RSMo, or defined as agricultural property by that section.]

[392.490. TARIFF, FILING PROCEDURES. — 1. Except as provided in subsection 2 of this section and in subsection 4 of section 392.220, any telecommunications company which seeks to file a tariff classifying a telecommunications service as competitive or transitionally competitive shall apply to the commission consistent with section 392.361, prior to offering or providing such service as competitive or transitionally competitive, for an order finding that the proposed tariff is proper and consistent with the law. The commission or the telecommunications company applying for commission approval pursuant to this subsection shall provide notice of its application and proposed tariff as provided in section 392.361, and the commission shall afford all interested persons reasonable notice and an opportunity to be heard. No such tariff shall become effective until after the commission issues an order consistent with section 392.361.

2. A noncompetitive or transitionally competitive telecommunications company which seeks to file a tariff classifying a telecommunications service as transitionally competitive by operation of subsection 1 of section 392.370, shall apply to the commission for an order finding that the transitionally competitive classification is consistent with subsection 1 of section 392.370. If such tariff does not otherwise propose a new rate, rental or charge or new regulation or practice affecting any rate, rental or charge, the transitionally competitive classification shall become effective ninety days after filing with the commission and notice to public counsel and all telecommunications companies unless the commission issues an order prior to the effective date of such tariff, after notice and hearing, upon its own motion or upon complaint by the public counsel or a telecommunications company, which finds that the transitionally competitive classification is not consistent with subsection 1 of section 392.370.]

[392.515. INTERSTATE OPERATOR SERVICES, RATES, COMMISSION TO DETERMINE, HOW — TRAFFIC AGGREGATOR NOT TO DENY USER ACCESS TO COMPANY OF CHOICE. — Notwithstanding the provisions of sections 392.361, 392.370, 392.380, 392.400, 392.480, 392.490, 392.500, 392.510 and 392.520 to the contrary:

(1) Intrastate operator services provided by alternative operator service companies shall be provided pursuant to rates approved by the commission under the provisions of subsection 2 of section 392.220, provided that proposed rates shall be presumed reasonable by the commission and approved if they are no higher than operator services rates of certificated interexchange telecommunications companies which are not alternative operator services companies;

(2) The commission shall promulgate rules as are supported by evidence as to reasonableness to protect users of intrastate operator services provided by interexchange telecommunications companies at traffic aggregator locations from unjust and unreasonable rates, charges, and practices; and to ensure that such users have the opportunity to make informed choices between and among providers of operator services. All such proposed rules shall be filed with the secretary of state and published in the Missouri Register as provided in chapter 536, RSMo, and a hearing shall be held at which affected parties may present evidence as to the reasonableness of any proposed rule. The provisions of subdivision (6) of section 386.250, RSMo, shall apply to rules promulgated under the authority of this section;

(3) Notwithstanding the provisions of paragraph (d) of subdivision (44) of section 386.020, RSMo, to the contrary, no traffic aggregator shall deny a user of intrastate operator services access to that user's interexchange telecommunications company of choice unless the commission, after hearing, orders otherwise for good cause shown.]

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 319.015, 319.022, 319.024, 319.025, 319.026, 319.030, 319.037, 319.041, 319.045, and 319.050, the

enactment of sections 319.027, 319.029, and 319.042, and the repeal of section 319.036 of this act shall become effective on January 1, 2009.

Approved July 10, 2008

HB 1784 [HB 1784]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires any American or Missouri flag flown on state property to be manufactured in the United States

AN ACT to amend chapter 8, RSMo, by adding thereto one new section relating to flags flown over state buildings.

SECTION

- A. Enacting clause.
- 8.922. United States and state flags flown on state property, manufacturer in United States required.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 8, RSMo, is amended by adding thereto one new section, to be known as section 8.922, to read as follows:

8.922. UNITED STATES AND STATE FLAGS FLOWN ON STATE PROPERTY, MANUFACTURER IN UNITED STATES REQUIRED. — **Any Missouri or American flag flown on state property located in Missouri shall be manufactured in the United States of America.**

Approved June 19, 2008

HB 1790 [SS HCS HB 1790]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding municipal health care facilities and hospital designations

AN ACT to repeal sections 96.160, 190.100, 190.176, 190.200, 190.241, 190.243, and 190.245, RSMo, and to enact in lieu thereof seven new sections relating to the time critical diagnosis system.

SECTION

- A. Enacting clause.
 - 96.160. Board of trustees — appointment.
 - 190.100. Definitions.
 - 190.176. Data collection system.
 - 190.200. Public information and education.
 - 190.241. Trauma, STEMI, or stroke centers, designation by department — on-site reviews — grounds for suspension or revocation of designation — fees — administrative hearing commission to hear persons aggrieved by designation.
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- 190.243. Transportation to trauma, STEMI, or stroke centers or hospitals, how authorized.
190.245. Peer review systems, required when — powers of department — medical records, penalty for failure to provide, purpose for use, names not to be released.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 96.160, 190.100, 190.176, 190.200, 190.241, 190.243, and 190.245, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 96.160, 190.100, 190.176, 190.200, 190.241, 190.243, and 190.245, to read as follows:

96.160. BOARD OF TRUSTEES — APPOINTMENT. — 1. Each facility established or operated and maintained under the provisions of sections 96.150 to 96.228 shall be governed by a board of trustees who shall serve without compensation. Each such board of trustees shall consist of five trustees, who shall be citizens of the city, unless the council shall provide by ordinance for a larger board of not more than fifteen trustees. Trustees shall be appointed by the mayor with the approval of the council and shall be chosen with reference to their fitness for such position; provided no member of the city council and no member of the immediate family of a member of the city council shall be a member of the board.

2. An ordinance providing for a larger board of trustees [shall require that three-fifths of such trustees shall be citizens of the city and] may provide that **some or all of** the [remaining] trustees need not be citizens of the city, but shall be citizens of the state of Missouri.

3. Any city establishing or maintaining and operating more than one health care facility may provide by ordinance that one board of trustees shall manage and operate two or more health care facilities.

190.100. DEFINITIONS. — As used in sections 190.001 to 190.245, the following words and terms mean:

(1) "Advanced life support (ALS)", an advanced level of care as provided to the adult and pediatric patient such as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(2) "Ambulance", any privately or publicly owned vehicle or craft that is specially designed, constructed or modified, staffed or equipped for, and is intended or used, maintained or operated for the transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or who require the presence of medical equipment being used on such individuals, but the term does not include any motor vehicle specially designed, constructed or converted for the regular transportation of persons who are disabled, handicapped, normally using a wheelchair, or otherwise not acutely ill, or emergency vehicles used within airports;

(3) "Ambulance service", a person or entity that provides emergency or nonemergency ambulance transportation and services, or both, in compliance with sections 190.001 to 190.245, and the rules promulgated by the department pursuant to sections 190.001 to 190.245;

(4) "Ambulance service area", a specific geographic area in which an ambulance service has been authorized to operate;

(5) "Basic life support (BLS)", a basic level of care, as provided to the adult and pediatric patient as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(6) "Council", the state advisory council on emergency medical services;

(7) "Department", the department of health and senior services, state of Missouri;

(8) "Director", the director of the department of health and senior services or the director's duly authorized representative;

(9) "Dispatch agency", any person or organization that receives requests for emergency medical services from the public, by telephone or other means, and is responsible for dispatching emergency medical services;

(10) "Emergency", the sudden and, at the time, unexpected onset of a health condition that manifests itself by symptoms of sufficient severity that would lead a prudent layperson, possessing an average knowledge of health and medicine, to believe that the absence of immediate medical care could result in:

(a) Placing the person's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in significant jeopardy;

(b) Serious impairment to a bodily function;

(c) Serious dysfunction of any bodily organ or part;

(d) Inadequately controlled pain;

(11) "Emergency medical dispatcher", a person who receives emergency calls from the public and has successfully completed an emergency medical dispatcher course, meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245;

(12) "Emergency medical response agency", any person that regularly provides a level of care that includes first response, basic life support or advanced life support, exclusive of patient transportation;

(13) "Emergency medical services for children (EMS-C) system", the arrangement of personnel, facilities and equipment for effective and coordinated delivery of pediatric emergency medical services required in prevention and management of incidents which occur as a result of a medical emergency or of an injury event, natural disaster or similar situation;

(14) "Emergency medical services (EMS) system", the arrangement of personnel, facilities and equipment for the effective and coordinated delivery of emergency medical services required in prevention and management of incidents occurring as a result of an illness, injury, natural disaster or similar situation;

(15) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, and by rules adopted by the department pursuant to sections 190.001 to 190.245;

(16) "Emergency medical technician-basic" or "EMT-B", a person who has successfully completed a course of instruction in basic life support as prescribed by the department and is licensed by the department in accordance with standards prescribed by sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

(17) "Emergency medical technician-intermediate" or "EMT-I", a person who has successfully completed a course of instruction in certain aspects of advanced life support care as prescribed by the department and is licensed by the department in accordance with sections 190.001 to 190.245 and rules and regulations adopted by the department pursuant to sections 190.001 to 190.245;

(18) "Emergency medical technician-paramedic" or "EMT-P", a person who has successfully completed a course of instruction in advanced life support care as prescribed by the department and is licensed by the department in accordance with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections 190.001 to 190.245;

(19) "Emergency services", health care items and services furnished or required to screen and stabilize an emergency which may include, but shall not be limited to, health care services that are provided in a licensed hospital's emergency facility by an appropriate provider or by an ambulance service or emergency medical response agency;

(20) "First responder", a person who has successfully completed an emergency first response course meeting or exceeding the national curriculum of the United States Department of Transportation and any modifications to such curricula specified by the department through rules adopted pursuant to sections 190.001 to 190.245 and who provides emergency medical care through employment by or in association with an emergency medical response agency;

(21) "Health care facility", a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed;

(22) "Hospital", an establishment as defined in the hospital licensing law, subsection 2 of section 197.020, RSMo, or a hospital operated by the state;

(23) "Medical control", supervision provided by or under the direction of physicians to providers by written or verbal communications;

(24) "Medical direction", medical guidance and supervision provided by a physician to an emergency services provider or emergency medical services system;

(25) "Medical director", a physician licensed pursuant to chapter 334, RSMo, designated by the ambulance service or emergency medical response agency and who meets criteria specified by the department by rules pursuant to sections 190.001 to 190.245;

(26) "Memorandum of understanding", an agreement between an emergency medical response agency or dispatch agency and an ambulance service or services within whose territory the agency operates, in order to coordinate emergency medical services;

(27) "Patient", an individual who is sick, injured, wounded, diseased, or otherwise incapacitated or helpless, or dead, excluding deceased individuals being transported from or between private or public institutions, homes or cemeteries, and individuals declared dead prior to the time an ambulance is called for assistance;

(28) "Person", as used in these definitions and elsewhere in sections 190.001 to 190.245, any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, public trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user or provider;

(29) "Physician", a person licensed as a physician pursuant to chapter 334, RSMo;

(30) "Political subdivision", any municipality, city, county, city not within a county, ambulance district or fire protection district located in this state which provides or has authority to provide ambulance service;

(31) "Professional organization", any organized group or association with an ongoing interest regarding emergency medical services. Such groups and associations could include those representing volunteers, labor, management, firefighters, EMT-B's, nurses, EMT-P's, physicians, communications specialists and instructors. Organizations could also represent the interests of ground ambulance services, air ambulance services, fire service organizations, law enforcement, hospitals, trauma centers, communication centers, pediatric services, labor unions and poison control services;

(32) "Proof of financial responsibility", proof of ability to respond to damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance or use of a motor vehicle in the financial amount set in rules promulgated by the department, but in no event less than the statutory minimum required for motor vehicles. Proof of financial responsibility shall be used as proof of self-insurance;

(33) "Protocol", a predetermined, written medical care guideline, which may include standing orders;

(34) "Regional EMS advisory committee", a committee formed within an emergency medical services (EMS) region to advise ambulance services, the state advisory council on EMS and the department;

(35) "Specialty care transportation", the transportation of a patient requiring the services of an emergency medical technician-paramedic who has received additional training beyond the training prescribed by the department. Specialty care transportation services shall be defined in writing in the appropriate local protocols for ground and air ambulance services and approved by the local physician medical director. The protocols shall be maintained by the local ambulance service and shall define the additional training required of the emergency medical technician-paramedic;

(36) "Stabilize", with respect to an emergency, the provision of such medical treatment as may be necessary to attempt to assure within reasonable medical probability that no material

deterioration of an individual's medical condition is likely to result from or occur during ambulance transportation unless the likely benefits of such transportation outweigh the risks;

(37) "State advisory council on emergency medical services", a committee formed to advise the department on policy affecting emergency medical service throughout the state;

(38) "State EMS medical directors advisory committee", a subcommittee of the state advisory council on emergency medical services formed to advise the state advisory council on emergency medical services and the department on medical issues;

(39) **"STEMI" or "ST-elevation myocardial infarction", a type of heart attack in which impaired blood flow to the patient's heart muscle is evidenced by ST-segment elevation in electrocardiogram analysis, and as further defined in rules promulgated by the department under sections 190.001 to 190.250;**

(40) **"STEMI center", a hospital that is currently designated as such by the department to care for patients with ST-segment elevation myocardial infarctions;**

(41) **"STEMI care", includes education and prevention, emergency transport, triage, and acute care and rehabilitative services for STEMI that requires immediate medical or surgical intervention or treatment;**

(42) **"Stroke", a condition of impaired blood flow to a patient's brain as defined by the department;**

(43) **"Stroke care", includes emergency transport, triage, and acute intervention and other acute care services for stroke that potentially require immediate medical or surgical intervention or treatment, and may include education, primary prevention, acute intervention, acute and subacute management, prevention of complications, secondary stroke prevention, and rehabilitative services;**

(44) **"Stroke center", a hospital that is currently designated as such by the department;**

[(39)] (45) **"Trauma", an injury to human tissues and organs resulting from the transfer of energy from the environment;**

[(40)] (46) **"Trauma care" includes injury prevention, triage, acute care and rehabilitative services for major single system or multisystem injuries that potentially require immediate medical or surgical intervention or treatment;**

[(41)] (47) **"Trauma center", a hospital that is currently designated as such by the department.**

190.176. DATA COLLECTION SYSTEM. — 1. The department shall develop and administer a uniform data collection system on all ambulance runs and injured patients, pursuant to rules promulgated by the department for the purpose of injury etiology, patient care outcome, injury **and disease** prevention and research purposes. The department shall not require disclosure by hospitals of data elements pursuant to this section unless those data elements are required by a federal agency or were submitted to the department as of January 1, 1998, pursuant to:

- (1) Departmental regulation of trauma centers; or
- (2) The Missouri head and spinal cord injury registry established by sections 192.735 to 192.745, RSMo; or
- (3) Abstracts of inpatient hospital data; or
- (4) If such data elements are requested by a lawful subpoena or subpoena duces tecum.

2. All information and documents in any civil action, otherwise discoverable, may be obtained from any person or entity providing information pursuant to the provisions of sections 190.001 to 190.245.

190.200. PUBLIC INFORMATION AND EDUCATION. — 1. The department of health and senior services in cooperation with local and regional EMS systems and agencies may provide public and professional information and education programs related to emergency medical services systems including trauma, **STEMI, and stroke** systems and emergency medical care

and treatment. The department of health and senior services may also provide public information and education programs for informing residents of and visitors to the state of the availability and proper use of emergency medical services, of the value and nature of programs to involve citizens in the administering of prehospital emergency care, including cardiopulmonary resuscitation, and of the availability of training programs in emergency care for members of the general public.

2. The department shall, for STEMI care and stroke care respectively:

(1) Compile and assess peer-reviewed and evidence-based clinical research and guidelines that provide or support recommended treatment standards;

(2) Assess the capacity of the emergency medical services system and hospitals to deliver recommended treatments in a timely fashion;

(3) Use the research, guidelines, and assessment to promulgate rules establishing protocols for transporting STEMI patients to a STEMI center or stroke patients to a stroke center. Such transport protocols shall direct patients to STEMI centers and stroke centers under section 190.243 based on the centers' capacities to deliver recommended acute care treatments within time limits suggested by clinical research;

(4) Define regions within the state for purposes of coordinating the delivery of STEMI care and stroke care, respectively;

(5) Promote the development of regional or community-based plans for transporting STEMI or stroke patients via ground or air ambulance to STEMI centers or stroke centers, respectively, in accordance with section 190.243; and

(6) Establish procedures for the submission of community-based or regional plans for department approval.

3. A community-based or regional plan shall be submitted to the department for approval. Such plan shall be based on the clinical research and guidelines and assessment of capacity described in subsection 1 of this section and shall include a mechanism for evaluating its effect on medical outcomes. Upon approval of a plan, the department shall waive the requirements of rules promulgated under sections 190.100 to 190.245 that are inconsistent with the community-based or regional plan. A community-based or regional plan shall be developed by or in consultation with the representatives of hospitals, physicians, and emergency medical services providers in the community or region.

190.241. TRAUMA, STEMI, OR STROKE CENTERS, DESIGNATION BY DEPARTMENT — ON-SITE REVIEWS — GROUNDS FOR SUSPENSION OR REVOCATION OF DESIGNATION — FEES — ADMINISTRATIVE HEARING COMMISSION TO HEAR PERSONS AGGRIEVED BY DESIGNATION. — 1. The department shall designate a hospital as an adult, pediatric or adult and pediatric trauma center when a hospital, upon proper application submitted by the hospital and site review, has been found by the department to meet the applicable level of trauma center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185.

2. The department shall designate a hospital as a STEMI or stroke center when such hospital, upon proper application and site review, has been found by the department to meet the applicable level of STEMI or stroke center criteria for designation in accordance with rules adopted by the department as prescribed by section 190.185. In developing STEMI center and stroke center designation criteria, the department shall use, as it deems practicable, appropriate peer-reviewed or evidence-based research on such topics including, but not limited to, the most recent guidelines of the American College of Cardiology and American Heart Association for STEMI centers, or the Joint Commission's Primary Stroke Center Certification program criteria for stroke centers, or Primary and Comprehensive Stroke Center Recommendations as published by the American Stroke Association.

3. The department of health and senior services shall, not less than once every five years, conduct an on-site review of every trauma, **STEMI, and stroke** center through appropriate department personnel or a qualified contractor. **On-site reviews shall be coordinated for the different types of centers to the extent practicable with hospital licensure inspections conducted under chapter 197, RSMo.** No person shall be a qualified contractor for purposes of this subsection who has a substantial conflict of interest in the operation of any trauma, **STEMI, or stroke** center under review. The department may deny, place on probation, suspend or revoke [a trauma center] **such** designation in any case in which it has reasonable cause to believe that there has been a substantial failure to comply with the provisions of this chapter or any rules or regulations promulgated pursuant to this chapter. If the department of health and senior services has reasonable cause to believe that a hospital is not in compliance with such provisions or regulations, it may conduct additional announced or unannounced site reviews of the hospital to verify compliance. If a trauma, **STEMI, or stroke** center fails two consecutive on-site reviews because of substantial noncompliance with standards prescribed by sections 190.001 to 190.245 or rules adopted by the department pursuant to sections 190.001 to 190.245, its [trauma] center designation shall be revoked.

[3.] 4. The department of health and senior services may establish appropriate fees to offset the costs of trauma, **STEMI, and stroke** center reviews.

[4.] 5. No hospital shall hold itself out to the public as [an adult, pediatric or adult and pediatric trauma center] **a STEMI center, stroke center, adult trauma center, pediatric trauma center, or an adult and pediatric trauma center** unless it is designated as such by the department of health and senior services.

[5.] 6. Any person aggrieved by an action of the department of health and senior services affecting the trauma, **STEMI, or stroke** center designation pursuant to this chapter, including the revocation, the suspension, or the granting of, refusal to grant, or failure to renew a designation, may seek a determination thereon by the administrative hearing commission [pursuant to the provisions of chapter 536] **under chapter 621, RSMo.** It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department.

190.243. TRANSPORTATION TO TRAUMA, STEMI, OR STROKE CENTERS OR HOSPITALS, HOW AUTHORIZED. — 1. Severely injured patients shall be transported to a trauma center. **Patients who suffer a STEMI, as defined in section 190.100, shall be transported to a STEMI center. Patients who suffer a stroke, as defined in section 190.100, shall be transported to a stroke center.**

2. A physician or registered nurse authorized by a physician who has established verbal communication with ambulance personnel shall instruct the ambulance personnel to transport a severely **ill or** injured patient to the closest hospital or designated trauma, **STEMI, or stroke** center, as determined according to estimated transport time whether by ground ambulance or air ambulance, in accordance with transport protocol approved by the medical director and the department of health and senior services, even when the hospital is located outside of the ambulance service's primary service area. When initial transport from the scene of **illness or** injury to a trauma, **STEMI, or stroke** center would be prolonged, the **STEMI, stroke, or** severely injured patient may be transported to the nearest appropriate facility for stabilization prior to transport to a trauma, **STEMI, or stroke** center.

[2.] 3. Transport of the **STEMI, stroke, or** severely injured patient shall be governed by principles of timely and medically appropriate care; consideration of reimbursement mechanisms shall not supersede those principles.

[3.] 4. Patients who [are not severely injured] **do not meet the criteria for direct transport to a trauma, STEMI, or stroke center** shall be transported to and cared for at the hospital of their choice so long as such ambulance service is not in violation of local protocols.

190.245. PEER REVIEW SYSTEMS, REQUIRED WHEN — POWERS OF DEPARTMENT — MEDICAL RECORDS, PENALTY FOR FAILURE TO PROVIDE, PURPOSE FOR USE, NAMES NOT TO BE RELEASED. — The department shall require hospitals, as defined by chapter 197, RSMo, designated as trauma, **STEMI, or stroke** centers to provide for a peer review system, approved by the department, for trauma, **STEMI, and stroke** cases [pursuant to the provisions of] , **respective to their designations, under** section 537.035, RSMo. For purposes of sections 190.241 to 190.245, the department of health and senior services shall have the same powers and authority of a health care licensing board pursuant to subsection 6 of section 537.035, RSMo. Failure of a hospital to provide all medical records necessary for the department to implement provisions of sections 190.241 to 190.245 shall result in the revocation of the hospital's designation as a trauma, **STEMI, or stroke** center. Any medical records obtained by the department or peer review committees shall be used only for purposes of implementing the provisions of sections 190.241 to 190.245 and the names of hospitals, physicians and patients shall not be released by the department or members of review committees.

Approved July 10, 2008

HB 1791 [HB 1791]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Defines "licensed professional counselor" and includes these individuals as mental health professionals working in the Division of Comprehensive Psychiatric Services

AN ACT to repeal section 632.005, RSMo, and to enact in lieu thereof one new section relating to licensed professional counselors.

SECTION

- A. Enacting clause.
- 632.005. Definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 632.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 632.005, to read as follows:

632.005. DEFINITIONS. — As used in chapter 631, RSMo, and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

- (1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than mental retardation or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;
 - (2) "Council", the Missouri advisory council for comprehensive psychiatric services;
 - (3) "Court", the court which has jurisdiction over the respondent or patient;
 - (4) "Division", the division of comprehensive psychiatric services of the department of mental health;
 - (5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;
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(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334, RSMo, or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150, RSMo;

(9) **"Licensed professional counselor", a person licensed as a professional counselor under chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder;**

(10) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

[(10)] (11) "Mental health coordinator", a mental health professional employed by the state of Missouri who has knowledge of the laws relating to hospital admissions and civil commitment and who is appointed by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

[(11)] (12) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or mental retardation facility shall be a mental health facility within the meaning of this chapter;

[(12)] (13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, **licensed professional counselor**, or psychiatric social worker;

[(13)] (14) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such

by the department. No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

[(14)] **(15)** "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

[(15)] **(16)** "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

[(16)] **(17)** "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335, RSMo, and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

[(17)] **(18)** "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

[(18)] **(19)** "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

[(19)] **(20)** "Psychologist", a person licensed to practice psychology under chapter 337, RSMo, with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

[(20)] **(21)** "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

[(21)] **(22)** "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

[(22)] **(23)** "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

Approved June 19, 2008

HB 1804 [SCS HCS HB 1804]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding municipalities and repeals the limits on the expenditures of excursion gambling boat revenues in certain entitles

AN ACT to repeal sections 82.020 and 313.820, RSMo, and to enact in lieu thereof three new sections relating to cities, with an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 77.105. Budget and expenditures, approval by ordinance, motion, or resolution required.
- 82.020. Constitutional charter, certain cities and towns may adopt or amend, procedure.
- 313.820. Admission fee, amount, division of — licensees subject to all other taxes, collection of nongaming taxes by department of revenue.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 82.020 and 313.820, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 77.105, 82.020, and 313.820, to read as follows:

77.105. BUDGET AND EXPENDITURES, APPROVAL BY ORDINANCE, MOTION, OR RESOLUTION REQUIRED. — **The budget or any authorization to expend funds shall be approved by an ordinance, motion, or resolution that is approved by a majority of all the members elected to the governing body.**

82.020. CONSTITUTIONAL CHARTER, CERTAIN CITIES AND TOWNS MAY ADOPT OR AMEND, PROCEDURE. — Any city or town under special charter, as defined in section 81.010, RSMo, and any other city in this state which now has or which may hereafter have a population of more than [ten] **five** thousand inhabitants according to the last preceding federal decennial census may frame and adopt or amend a charter for its own government by complying with the provisions of sections 19 and 20 of article VI of the constitution of this state, or any amendments thereof.

313.820. ADMISSION FEE, AMOUNT, DIVISION OF — LICENSEES SUBJECT TO ALL OTHER TAXES, COLLECTION OF NONGAMING TAXES BY DEPARTMENT OF REVENUE. — 1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission. One dollar of such fee shall be deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835, and one dollar of such fee shall not be considered state funds and shall be paid to the home dock city or county. Subject to appropriation, one cent of such fee deposited to the credit of the gaming commission fund may be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of section 313.842. Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the department of revenue may furnish and the commission may receive tax information to determine if applicants or licensees are complying with the tax laws of this state; however, any tax information acquired by the commission shall not become public record and shall be used exclusively for commission business.

[3. Effective fiscal year 2008 and each fiscal year thereafter, the amount of expenditures from funds derived from admission fees paid to a home dock city or county, located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, shall not exceed the

revenue received by the home dock city or county from admission fees for fiscal year 2007. In the case of a new excursion gambling boat located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, the provisions of this section shall become effective two years from the opening of such excursion gambling boat and the amount of expenditures from funds derived from admission fees paid to a home dock city or county shall not exceed the average revenue received by the home dock city or county from admission fees for the first two fiscal years in which such excursion gambling boat opened for business. Effective fiscal year 2010 and each subsequent fiscal year until fiscal year 2015, the percentage of revenue derived by a home dock city or county, located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than thirty percent. Effective fiscal year 2015 and each subsequent fiscal, the percentage of revenue derived by a home dock city or county, located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than twenty percent.

4. After fiscal year 2007, in any fiscal year in which a home dock city or county, located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, collects an amount over the limitation on expenditures of revenue derived from admission fees provided in subsection 3 of this section, such revenue shall be treated as if it were sales tax revenue within the meaning of section 67.505, RSMo, provided that the home dock city or county shall reduce its total general revenue property tax levy, in accordance with the method provided in subdivision (6) of subsection 3 of section 67.505, RSMo.

5. The provisions of subsections 3 and 4 of this section shall not affect the imposition or collection of a tax under section 313.822.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the law and avoid costly litigation for small special charter cities, the repeal and reenactment of section 82.020 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 82.020 of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2008

HB 1807 [SCS HCS HB 1807]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Renames the State Schools for Severely Handicapped Children as the Missouri Schools for the Severely Disabled

AN ACT to repeal sections 162.675, 162.730, 162.740, 162.755, 162.780, 162.785, 162.810, and 168.520, RSMo, and to enact in lieu thereof eight new sections relating to Missouri schools for the severely disabled, with penalty provisions.

SECTION

- A. Enacting clause.
- 162.675. Definitions.
- 162.730. State board to establish schools for severely disabled — special services for deaf — who shall provide — rules, procedure.
- 162.740. District of residence to pay toward cost, when — amount, how calculated.
- 162.755. Transportation to be provided children, sheltered workshop employees, social centers and residents of facilities for certain disabled persons, also certain state schools.
- 162.780. Care and control of property of state schools for severely disabled in state board of education.
- 162.785. State board authorized to acquire property and to receive and administer grants.
- 162.810. Employees not to have interest in sales to schools, penalty.
- 168.520. Career advancement program for personnel of state schools for the blind, deaf and severely disabled — salary supplement for participants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 162.675, 162.730, 162.740, 162.755, 162.780, 162.785, 162.810, and 168.520, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 162.675, 162.730, 162.740, 162.755, 162.780, 162.785, 162.810, and 168.520, to read as follows:

162.675. DEFINITIONS. — As used in sections 162.670 to 162.995, unless the context clearly indicates otherwise, the following terms mean:

(1) "Children with disabilities" or "handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, require special educational services;

(2) "Gifted children", children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade-level curriculum;

(3) "Severely handicapped children", handicapped children under the age of twenty-one years who meet the eligibility criteria for [state] **Missouri** schools for [severely handicapped children] **the severely disabled**, identified in state regulations that implement the Individuals with Disabilities Education Act;

(4) "Special educational services", programs designed to meet the needs of children with disabilities or handicapped or severely handicapped children and which include, but are not limited to, the provision of diagnostic and evaluation services, student and parent counseling, itinerant, homebound and referral assistance, organized instructional and therapeutic programs, transportation, and corrective and supporting services.

162.730. STATE BOARD TO ESTABLISH SCHOOLS FOR SEVERELY DISABLED — SPECIAL SERVICES FOR DEAF — WHO SHALL PROVIDE — RULES, PROCEDURE. — 1. The state board of education shall establish schools or programs in this state sufficient to provide special educational services for all severely handicapped children not residing in special school districts or in other school districts providing approved special educational services for severely handicapped children which schools or programs shall be referred to herein as ["state schools for severely handicapped children"] **"Missouri Schools for the Severely Disabled"**.

2. The Missouri School for the Blind at St. Louis and the Missouri School for the Deaf at Fulton are within the division of special [services] **education** of the department of elementary and secondary education. The state board of education shall govern these schools.

3. The state board of education:

(1) Shall determine the type and kind of instruction to be offered and the number and qualifications of instructors and other necessary personnel in the [state] **Missouri** schools for **the** severely [handicapped children] **disabled**, the school for the blind and the school for the deaf; provided, however, that the course of study of these schools shall be of a character to develop the mental, physical, vocational and social abilities of the pupils and to prepare those students capable of advancing for admission to postsecondary programs;

(2) Shall promulgate all rules and regulations governing enrollment, including that of assigning children to the most appropriate school or programs; and

(3) Shall determine and approve all policies for the operation of said schools or programs.

4. Notwithstanding any other provision of this section, each school district which is not a part of a special school district and each special school district shall provide special educational services for deaf children and youth within the ages of five through thirteen years residing in the district in accordance with rules, regulations and standards promulgated by the state board of education. Such services shall be provided within the district of residence or by contract with a nearby district or districts or nearby public agency or agencies pursuant to the provisions of sections 162.670 to 162.995, provided, however, that nothing herein shall be construed to affect the funding or operation of the Missouri School for the Deaf at Fulton nor to deny to any deaf child or youth within the age range prescribed above the right to enrollment therein.

5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

162.740. DISTRICT OF RESIDENCE TO PAY TOWARD COST, WHEN — AMOUNT, HOW CALCULATED. — The district of residence of each child attending a [state school for severely handicapped children] **Missouri school for the severely disabled** or an educational program for a full-time patient or resident at a facility operated by the department of mental health, except school districts which are a part of a special district and except special school districts, shall pay toward the cost of the education of the child an amount equal to the average sum produced per child by the local tax effort of the district. The district of residence shall be notified each year, not later than December fifteenth, of the names and addresses of pupils enrolled in such schools. In the case of a special district, said special district shall be responsible for an amount per child not to exceed the average sum produced per child by the local tax efforts of the component districts. The district of residence of the child's parents or guardians shall be the district responsible for local tax contributions required by this section.

162.755. TRANSPORTATION TO BE PROVIDED CHILDREN, SHELTERED WORKSHOP EMPLOYEES, SOCIAL CENTERS AND RESIDENTS OF FACILITIES FOR CERTAIN DISABLED PERSONS, ALSO CERTAIN STATE SCHOOLS. — 1. The state board of education shall provide reasonable transportation for children who attend day schools or programs operated by the state board of education or who attend programs operated through contract by the state board of education as provided in section 162.735.

2. Sheltered workshops holding a certificate of approval from the department of elementary and secondary education under section 178.920, RSMo, and clients of other facilities operated under the provisions of sections 205.968 to 205.973, RSMo, and [state schools for the severely handicapped] **Missouri schools for the severely disabled** may cooperate in the provision of employee, client and student transportation. Employees of sheltered workshops and clients of other facilities operated under the provisions of sections 205.968 to 205.973, RSMo, may be transported to sheltered workshops and other facilities in vehicles owned and operated by the department of elementary and secondary education or hired by the department for student transportation or students may be transported in vehicles owned and operated or hired by sheltered workshops or other facilities operated under the provisions of sections 205.968 to 205.973, RSMo, to [state schools for the severely handicapped] **Missouri schools for the severely disabled**.

3. The provision of sheltered workshop employee or other client transportation in vehicles owned and operated or hired by the department of elementary and secondary education shall not unduly interfere with the routes and schedules of the [state schools for the severely handicapped] **Missouri schools for the severely disabled** and reasonable compensation may be paid by the sheltered workshop or other facility for the developmentally disabled to the department of elementary and secondary education.

4. The department of elementary and secondary education may secure transportation for students in [state schools for the severely handicapped] **the Missouri schools for the severely disabled** in vehicles owned and operated or hired by sheltered workshops or other facilities operated under the provisions of sections 205.968 to 205.973, RSMo, and make reasonable compensation for the service to the sheltered workshop or other facility for the developmentally disabled.

162.780. CARE AND CONTROL OF PROPERTY OF STATE SCHOOLS FOR SEVERELY DISABLED IN STATE BOARD OF EDUCATION. — The state board of education shall have the care and control of all property, real and personal, necessary for the operation of [the state schools for severely handicapped children] **the Missouri schools for the severely disabled**, the school for the blind and the school for the deaf. The state board of education shall not sell or in any manner dispose of any real estate purchased by tax moneys belonging to the schools without an act of the general assembly authorizing the sale or other disposition. The state board of education may sell, convey, exchange or convert into money property of any nature, real, personal or mixed, acquired from individuals or corporations by grant, gift, bequest, devise or donation to these schools or any of them.

162.785. STATE BOARD AUTHORIZED TO ACQUIRE PROPERTY AND TO RECEIVE AND ADMINISTER GRANTS. — 1. The state board of education may acquire by purchase, lease, gift, bequest, eminent domain, or otherwise, all necessary lands, buildings or equipment, including transportation facilities, for the use and benefit of the Missouri School for the Blind, the Missouri School for the Deaf and the [state schools for severely handicapped children] **Missouri schools for the severely disabled**. Whenever the board selects property or additional property for school purposes and cannot agree with the owner thereof as to the price to be paid, or for any other cause cannot secure a title thereto, the board may proceed to condemn the property in the manner provided in chapter 523, RSMo, and on such condemnation and payment of the appraisement as provided, the title to the property shall vest in the state board of education for the use and benefit of the school or schools for which it was required.

2. The state board of education may receive and administer any grants, gifts, devises, bequests or donations by any individual or corporation to the [state schools for severely handicapped children] **Missouri schools for the severely disabled**, or any of them, the Missouri School for the Blind or the Missouri School for the Deaf. Grants, gifts, devises, bequests or donations made for a specified use shall not be applied either wholly or in part to any other use.

162.810. EMPLOYEES NOT TO HAVE INTEREST IN SALES TO SCHOOLS, PENALTY. — No employee of [the state schools for severely handicapped children] **Missouri schools for the severely disabled**, the Missouri School for the Blind or the Missouri School for the Deaf shall keep for sale or be interested, directly or indirectly, in the sale or exchange of any school furniture or apparatus, books, maps, charts, stationery, or other property or food used in the schools. Any employee found to be so interested, upon conviction, shall be adjudged guilty of a misdemeanor.

168.520. CAREER ADVANCEMENT PROGRAM FOR PERSONNEL OF STATE SCHOOLS FOR THE BLIND, DEAF AND SEVERELY DISABLED — SALARY SUPPLEMENT FOR PARTICIPANTS. —

1. For the purpose of providing career pay, which shall be a salary supplement for teachers, librarians, guidance counselors and certificated teachers who hold positions as school

psychological examiners, parents-as-teachers educators, school psychologists, special education diagnosticians or speech pathologists in [the state schools for the severely handicapped] **Missouri schools for the severely disabled**, the Missouri School for the Blind and the Missouri School for the Deaf, there is hereby established a career advancement program which shall become effective no later than September 1, 1986. Participation in the career advancement program by teachers shall be voluntary.

2. The department of elementary and secondary education with the recommendation of teachers from the state schools, shall develop a career plan. This state career plan shall include, but need not be limited to, the provisions of state model career plans as contained in subsection 2 of section 168.500.

3. After a teacher who is duly employed by a state school qualifies and is selected for participation in the state career plan established under this section, such a teacher shall not be denied the career pay authorized by such plan except as provided in subdivisions (1), (2), and (3) of section 168.510.

4. Each teacher selected to participate in the career plan established under this section who meets the requirements of such plan, shall receive a salary supplement as provided in subdivisions (1), (2), and (3) of subsection 1 of section 168.515.

5. The department of elementary and secondary education shall annually include within its budget request to the general assembly sufficient funds for the purpose of providing career pay as established under this section to those eligible teachers employed in [state schools for the severely handicapped] **Missouri schools for the severely disabled**, the Missouri School for the Deaf, and the Missouri School for the Blind.

Approved June 10, 2008

HB 1828 [HB 1828]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Director of the Department of Revenue to establish and enforce reasonable sales and use tax rules and regulations

AN ACT to repeal section 144.270, RSMo, and to enact in lieu thereof one new section relating to sales and use tax regulations.

SECTION

A. Enacting clause.

144.270. Rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.270, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.270, to read as follows:

144.270. RULEMAKING AUTHORITY. — For the purpose of more efficiently securing the payment of and accounting for the tax imposed by [sections 144.010 to 144.510] **this chapter**, the director of revenue shall make, promulgate and enforce reasonable rules and regulations for the administration and enforcement of the provisions of [sections 144.010 to 144.510] **this chapter**.

Approved June 19, 2008

HB 1849 [HB 1849]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws governing municipal zoning violation remedies

AN ACT to repeal section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to zoning violation remedies, with penalty provisions.

SECTION

- A. Enacting clause.
- 89.120. Violations — penalties.
- 89.120. Violations — penalties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, is repealed and one new section enacted in lieu thereof, to be known as section 89.120, to read as follows:

89.120. VIOLATIONS — PENALTIES. — 1. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of sections 89.010 to 89.140.

2. The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation, or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable as follows:

(1) In any [municipality contained wholly or partially within a county] **city** with [a population of over six hundred thousand and less than nine] **more than three** hundred thousand **inhabitants**, by a fine of not less than ten dollars and not more than five hundred dollars for each and every day that such violation continues, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the

court. Notwithstanding the provisions of section 82.300, RSMo, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than two hundred and fifty dollars or more than one thousand dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court;

(2) In all other municipalities, by a fine of not less than ten dollars and not more than [one] **two hundred fifty** dollars for each and every day that such violation continues, [but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars or more than two hundred and fifty dollars for each and every day that such violation shall continue] or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. **Notwithstanding the provisions of section 82.300, RSMo, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.**

3. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

[89.120. VIOLATIONS — PENALTIES. — 1. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made pursuant to the authority of sections 89.010 to 89.140.

2. Except as provided in subsection 4 of this section, the owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of section 82.300, RSMo, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.

3. Any such person who having been served with an order to remove any such violation shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

4. In a city with a population of more than three hundred fifty thousand, the owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.]

Approved June 25, 2008

HB 1869 [HB 1869]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Missouri Revisor of Statutes to change all references of the term "junior college" to "community college" in the Revised Statutes of Missouri

AN ACT to amend chapter 174, RSMo, by adding thereto one new section relating to junior colleges.

SECTION

A. Enacting clause.

174.805. Junior college to be referred to as community college in state statutes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 174, RSMo, is amended by adding thereto one new section, to be known as section 174.805, to read as follows:

174.805. JUNIOR COLLEGE TO BE REFERED TO AS COMMUNITY COLLEGE IN STATE STATUTES. — **The term "junior college" shall be referred to as "community college". The revisor of statutes shall make the appropriate changes to all such references in the revised statutes.**

Approved June 19, 2008

HB 1881 [HB 1881]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the term of office for the initially appointed directors of public water supply districts

AN ACT to repeal section 247.060, RSMo, and to enact in lieu thereof one new section relating to county water supply districts.

SECTION

A. Enacting clause.

247.060. Board of directors — powers — qualifications — appointment — terms — vacancies, how filled — elections held, when, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 247.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.060, to read as follows:

247.060. BOARD OF DIRECTORS — POWERS — QUALIFICATIONS — APPOINTMENT — TERMS — VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE. — 1. The management of the business and affairs of the district is hereby vested in a board of directors, who shall have all the powers conferred upon the district except as herein otherwise provided, who shall serve without pay. It shall be composed of five members, each of whom shall be a voter of the district and shall have resided in said district one whole year immediately prior to his election. A member shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his election. Except as provided in subsection 2 of this section, the term of office of a member of the board shall be three years. The remaining members of the board shall appoint a qualified person to fill any vacancy on the board. If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve on the board, the board may appoint an otherwise qualified person, who lives in the district but not in the subdistrict in which the vacancy exists to fill such vacancy.

2. After notification by certified mail that he or she has two consecutive unexcused absences, any member of the board failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to the board. The vacancy shall be filled as other vacancies occurring in the board.

3. The initial members of the board shall be appointed by the circuit court and one shall serve until the immediately following first Tuesday after the first Monday in [June] **April**, two shall serve until the first Tuesday after the first Monday in [June] **April** on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in [June] **April** on the third year following their appointment. On the expiration of such terms and on the expiration of any subsequent term, elections shall be held as otherwise provided by law, and such elections shall be held in April pursuant to section 247.180.

4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first Tuesday after the first Monday in June until the first Tuesday in April of the third year following the year of their election. All directors elected thereafter shall serve from the first Tuesday in April until the first Tuesday in April of the third year following the year of their election.

Approved June 19, 2008

HB 1883 [SCS HCS HB 1883]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding employment practices

AN ACT to repeal sections 287.020, 287.200, 287.230, 290.505, and 320.336, RSMo, and to enact in lieu thereof seven new sections relating to employment, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 285.035. Microchip technology, employer not to require employees to be implanted — violation, penalty.
- 287.020. Definitions — intent to abrogate earlier case law.
- 287.200. Permanent total disability, amount to be paid — suspension of payments, when.
- 287.230. Payment of compensation at death of employee — exceptions — abrogation of case law.
- 290.505. Overtime compensation, applicable number of hours, exceptions.
- 290.523. Rulemaking authority.
- 320.336. Termination from employment prohibited, when — loss of pay permitted, when — written verification of service permitted — employer notification requirements.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 287.020, 287.200, 287.230, 290.505, and 320.336, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 285.035, 287.020, 287.200, 287.230, 290.505, 290.523, and 320.336, to read as follows:

285.035. MICROCHIP TECHNOLOGY, EMPLOYER NOT TO REQUIRE EMPLOYEES TO BE IMPLANTED — VIOLATION, PENALTY. — **1. No employer shall require an employee to have personal identification microchip technology implanted into an employee for any reason.**

2. For purposes of this section, "personal identification microchip technology" means a subcutaneous or surgically implanted microchip technology device or product that contains or is designed to contain a unique identification number and personal information that can be non-invasively retrieved or transmitted with an external scanning device.

3. Any employer who violates this section is guilty of a class A misdemeanor.

287.020. DEFINITIONS — INTENT TO ABROGATE EARLIER CASE LAW. — **1.** The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. **Except as otherwise provided in section 287.200,** any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is the owner, as defined in subsection 43 of section 301.010, RSMo, and operator of a motor vehicle which is leased or contracted with a driver to a for-hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the Missouri department of transportation or by the United States Department of Transportation, or any of its subagencies.

2. The word "accident" as used in this chapter shall mean an unexpected traumatic event or unusual strain identifiable by time and place of occurrence and producing at the time objective symptoms of an injury caused by a specific event during a single work shift. An injury is not compensable because work was a triggering or precipitating factor.

3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. An injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability. "The prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability.

(2) An injury shall be deemed to arise out of and in the course of the employment only if:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the accident is the prevailing factor in causing the injury; and

(b) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life.

(3) An injury resulting directly or indirectly from idiopathic causes is not compensable.

(4) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular disease or myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in causing the resulting medical condition.

(5) The terms "injury" and "personal injuries" shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course of the employment, nor shall they include death due to natural causes occurring while the worker is at work.

4. "Death" when mentioned as a basis for the right to compensation means only death resulting from such violence and its resultant effects occurring within three hundred weeks after the accident; except that in cases of occupational disease, the limitation of three hundred weeks shall not be applicable.

5. Injuries sustained in company-owned or subsidized automobiles in accidents that occur while traveling from the employee's home to the employer's principal place of business or from the employer's principal place of business to the employee's home are not compensable. The extension of premises doctrine is abrogated to the extent it extends liability for accidents that occur on property not owned or controlled by the employer even if the accident occurs on customary, approved, permitted, usual or accepted routes used by the employee to get to and from their place of employment.

6. The term "total disability" as used in this chapter shall mean inability to return to any employment and not merely mean inability to return to the employment in which the employee was engaged at the time of the accident.

7. As used in this chapter and all acts amendatory thereof, the term "commission" shall hereafter be construed as meaning and referring exclusively to the labor and industrial relations commission of Missouri, and the term "director" shall hereafter be construed as meaning the director of the department of insurance of the state of Missouri or such agency of government as shall exercise the powers and duties now conferred and imposed upon the department of insurance of the state of Missouri.

8. The term "division" as used in this chapter means the division of workers' compensation of the department of labor and industrial relations of the state of Missouri.

9. For the purposes of this chapter, the term "minor" means a person who has not attained the age of eighteen years; except that, for the purpose of computing the compensation provided for in this chapter, the provisions of section 287.250 shall control.

10. In applying the provisions of this chapter, it is the intent of the legislature to reject and abrogate earlier case law interpretations on the meaning of or definition of "accident", "occupational disease", "arising out of", and "in the course of the employment" to include, but not be limited to, holdings in: *Bennett v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D. 2002); *Kasl v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA*, 984 S.W.2d 512 (Mo.banc 1999) and all cases citing, interpreting, applying, or following those cases.

287.200. PERMANENT TOTAL DISABILITY, AMOUNT TO BE PAID — SUSPENSION OF PAYMENTS, WHEN. — 1. Compensation for permanent total disability shall be paid during the continuance of such disability for the lifetime of the employee at the weekly rate of compensation in effect under this subsection on the date of the injury for which compensation is being made. **The word "employee" as used in this section shall not include the injured worker's dependents, estate, or other persons to whom compensation may be payable as provided in subsection 1 of section 287.020.** The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred five percent of the state average weekly wage;

(5) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week.

2. **Permanent total disability benefits that have accrued through the date of the injured employee's death are the only permanent total disability benefits that are to be paid in accordance with section 287.230. The right to unaccrued compensation for permanent total disability of an injured employee terminates on the date of the injured employee's death in accordance with section 287.230, and does not survive to the injured employee's dependents, estate, or other persons to whom compensation might otherwise be payable.**

3. All claims for permanent total disability shall be determined in accordance with the facts. When an injured employee receives an award for permanent total disability but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is restored to his regular

work or its equivalent, the life payment mentioned in subsection 1 of this section shall be suspended during the time in which the employee is restored to his regular work or its equivalent. The employer and the division shall keep the file open in the case during the lifetime of any injured employee who has received an award of permanent total disability. In any case where the life payment is suspended under this subsection, the commission may at reasonable times review the case and either the employee or the employer may request an informal conference with the commission relative to the resumption of the employee's weekly life payment in the case.

287.230. PAYMENT OF COMPENSATION AT DEATH OF EMPLOYEE — EXCEPTIONS — ABROGATION OF CASE LAW. — 1. The death of the injured employee shall not affect the liability of the employer to furnish compensation as in this chapter provided, so far as the liability has accrued and become payable at the time of the death, and any accrued and unpaid compensation due the employee shall be paid to his dependents without administration, or if there are no dependents, to his personal representative or other persons entitled thereto, but the death shall be deemed to be the termination of the disability.

2. Where an employee is entitled to compensation under this chapter, **exclusive of compensation as provided for in section 287.200**, for an injury received and death ensues for any cause not resulting from the injury for which [he] **the employee** was entitled to compensation, [payments of the unpaid accrued compensation shall be paid, but] payments of the unpaid unaccrued [balance] **compensation under section 287.190 and no other compensation** for the injury shall [cease and all liability therefor shall terminate unless there are] **be paid to the** surviving dependents at the time of death.

3. **In applying the provisions of this chapter, it is the intent of the legislature to reject and abrogate the holding in *Schoemehl v. Treasurer of the State of Missouri*, 217 S.W.3d 900 (Mo. 2007), and all cases citing, interpreting, applying, or following this case.**

290.505. OVERTIME COMPENSATION, APPLICABLE NUMBER OF HOURS, EXCEPTIONS. — 1. No employer shall employ any of his employees for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

2. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. 213(a) (3) must be paid one and one-half times their regular compensation for any hours worked in excess of fifty-two hours in any one-week period.

3. With the exception of employees described in subsection (2), the overtime requirements of subsection (1) shall not apply to employees who are exempt from federal minimum wage or overtime requirements [pursuant to 29 U.S.C. §§ 213(a)-(b)] **including, but not limited to, the exemptions or hour calculation formulas specified in 29 U.S.C. Sections 207 and 213, and any regulations promulgated thereunder.**

4. **Except as may be otherwise provided under sections 290.500 to 290.530, this section shall be interpreted in accordance with the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended, and the Portal to Portal Act, 29 U.S.C. Section 251, et seq., as amended, and any regulations promulgated thereunder.**

290.523. RULEMAKING AUTHORITY. — The department may, in accordance with chapter 536, RSMo, promulgate such rules and regulations as are necessary for the enforcement and administration of sections 290.500 to 290.530. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the

general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annual a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

320.336. TERMINATION FROM EMPLOYMENT PROHIBITED, WHEN — LOSS OF PAY PERMITTED, WHEN — WRITTEN VERIFICATION OF SERVICE PERMITTED — EMPLOYER NOTIFICATION REQUIREMENTS. — 1. No public or private employer shall terminate an employee for joining any fire department or fire protection district, including but not limited to any municipal, volunteer, rural, or subscription fire department or organization[, a] **or any** volunteer fire protection association, as a volunteer firefighter, **or the** Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team, **or being activated to a national disaster response by the Federal Emergency Management Agency (FEMA).**

2. No public or private employer shall terminate an employee who is a volunteer firefighter, a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, or Urban Search and Rescue Team because the employee, when acting as a volunteer firefighter, **or as** a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team, **or FEMA** is absent from or late to his or her employment in order to respond to an emergency before the time the employee is to report to his or her place of employment.

3. An employer may charge against the employee's regular pay any **employment** time [that] **lost by** an employee who is a volunteer firefighter, **or** a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team [loses from employment] , **or FEMA** because of the employee's response to an emergency in the course of performing his or her duties as a volunteer firefighter, **or** a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team, **or FEMA.**

4. In the case of an employee who is a volunteer firefighter, **or** a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team, **or FEMA** and who loses time from his or her employment in order to respond to an emergency in the course of performing his or her duties as a volunteer firefighter, **or** a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team, **or FEMA**, the employer has the right to request the employee to provide the employer with a written statement from the supervisor or acting supervisor of the volunteer fire department or the commander of Missouri-1 Disaster Medical Assistance Team **or the FEMA supervisor** stating that the employee responded to an emergency and stating the time and date of the emergency.

5. An employee who is a volunteer firefighter, or a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team, **or FEMA** and who may be absent from or late to his or her employment in order to respond to an emergency in the course of performing his or her duties as a volunteer firefighter, or a member of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, [or] Urban Search and Rescue Team, **or FEMA** shall make a reasonable effort to notify his or her employer that he or she may be absent or late.

SECTION B. EMERGENCY CLAUSE. — Because of the need to clarify workers' compensation laws and preserve the solvency of the workers' compensation system, the repeal and reenactment of sections 287.020, 287.200, and 287.230 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment

of sections 287.020, 287.200, and 287.230 of this act shall be in full force and effect upon its passage and approval.

Approved June 26, 2008

HB 1887 [HB 1887]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates a portion of State Highway 13 in Polk County as the "Rick Seiner Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial highway.

SECTION

A. Enacting clause.

227.397. Rick Seiner Memorial highway designated for portion of Highway 13 in Polk County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.397, to read as follows:

227.397. RICKSEINER MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 13 IN POLK COUNTY. — The portion of highway 13 from the intersection of highway 83 to the intersection of highway Y in Polk county shall be designated the "Rick Seiner Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway designation, with the cost to be paid for by private donation.

Approved June 17, 2008

HB 1888 [HCS HB 1888]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows a municipality to annex land within the airport zone of the City of Springfield if it agrees to enforce Springfield's zoning ordinance

AN ACT to repeal sections 89.080, 89.090, and 305.410, RSMo, and to enact in lieu thereof three new sections relating to airport zoning.

SECTION

A. Enacting clause.

89.080. Board of adjustment — appointment — term — vacancies — organization.

89.090. Board of adjustment — powers, exception for Kansas City.

305.410. Annexation of land within airport zone prohibited, exceptions — enforcement authority — board of adjustment authorized (Greene County).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 89.080, 89.090, and 305.410, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 89.080, 89.090, and 305.410, to read as follows:

89.080. BOARD OF ADJUSTMENT — APPOINTMENT — TERM — VACANCIES — ORGANIZATION. — Such local legislative body shall provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 89.010 to 89.140 may provide that the board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The board of adjustment shall consist of five members, who shall be residents of the municipality **except as provided in section 305.410, RSMo.** The membership of the first board appointed shall serve respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter members shall be appointed for terms of five years each. Three alternate members may be appointed to serve in the absence of or the disqualification of the regular members. All members and alternates shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman who shall serve for one year. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 89.010 to 89.140. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. All testimony, objections thereto and rulings thereon, shall be taken down by a reporter employed by the board for that purpose.

89.090. BOARD OF ADJUSTMENT — POWERS, EXCEPTION FOR KANSAS CITY. — 1. The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 89.010 to 89.140 or of any ordinance adopted pursuant to such sections;

(2) To hear and decide all matters referred to it or upon which it is required to pass under such ordinance;

(3) In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done, provided that, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, the board of adjustment shall not have the power to vary or modify any ordinance relating to the use of land.

2. In exercising the above-mentioned powers such board may, in conformity with the provisions of sections 89.010 to 89.140, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance **except as provided in section 305.410, RSMo.**

305.410. ANNEXATION OF LAND WITHIN AIRPORT ZONE PROHIBITED, EXCEPTIONS — ENFORCEMENT AUTHORITY — BOARD OF ADJUSTMENT AUTHORIZED (GREENE COUNTY).

— **1.** Notwithstanding any other law to the contrary, annexation of land located within an airport zone by any city, town or village other than the municipality which owns the airport is prohibited, nor shall any areas be incorporated in such airport zones.

2. Notwithstanding the provisions of subsection 1 of this section, a city, town, or village may annex land located within an airport zone if the city, town, or village has entered into an agreement under section 70.220, RSMo, with the municipality that owns the airport. Under the agreement, the city, town, or village shall adopt the airport zoning ordinance of the municipality owning the airport and shall agree to enforce and administer the terms of such airport zoning ordinance. Any city, town, or village, including its officers or employees, that has agreed to enforce and administer the airport zoning ordinance of the municipality that owns the airport who fails to enforce or administer the airport zoning ordinance or the terms of an agreement for enforcement and administration shall be subject to injunction, quo warranto, mandamus, or the remedies set forth in the agreement. If the city, town, or village fails to enforce the municipality's airport zoning law, the municipality owning the airport shall, in addition to all other remedies provided for in this section, have the right to enforce the zoning law against the violator by injunction or declaratory judgment.

3. Notwithstanding any other law to the contrary, the powers of the board of adjustment under section 89.080, RSMo, may be vested in a new board of adjustment consisting of members of the board of adjustment of the municipality that own the airport and the members of the board of adjustment of the city, town, or village that annexes land within the airport zone in accordance with an agreement to enforce and administer the zoning regulations set forth in section 305.405 and the airport zoning ordinance of the municipality that owns the airport. Notwithstanding the provisions of section 89.090, RSMo, or any other law to the contrary, the concurring vote of eight members of the new board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

Approved June 6, 2008

HB 1893 [HCS HB 1893]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the formula for calculating a refund for credit insurance premiums

AN ACT to repeal section 385.050, RSMo, and to enact in lieu thereof one new section relating to premium refund calculations for credit insurance.

SECTION

A. Enacting clause.

385.050. Revision of premium schedules, procedure for — refunds paid, when — limit on charge for credit life.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 385.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 385.050, to read as follows:

385.050. REVISION OF PREMIUM SCHEDULES, PROCEDURE FOR — REFUNDS PAID, WHEN — LIMIT ON CHARGE FOR CREDIT LIFE. — 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the actuarial method of calculating refunds which produces a refund equal to the original premium multiplied by the ratio of the sum of the remaining insured balances divided by the sum of the original insured balances [as of the due date nearest the date of prepayment in full]. **In determining the number of months for which a premium is earned, the first month's premium may be considered as earned on the first day of coverage and for all successive months' premiums, on the coverage anniversary date in each successive month.**

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

Approved June 19, 2008

HB 1946 [SCS HB 1946]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the requirements regarding the granting of adoption subsidies and exempts certain neighborhood youth development programs from state child care licensing requirements

AN ACT to repeal sections 453.072 and 453.073, RSMo, and to enact in lieu thereof three new sections relating to adoption subsidies.

SECTION

- A. Enacting clause.
- 210.278. Exempt from licensure, when.
- 453.072. Qualified relatives to receive subsidies, when.
- 453.073. Subsidy to adopted child — determination of — how paid — written agreement.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 453.072 and 453.073, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.278, 453.072, and 453.073, to read as follows:

210.278. EXEMPT FROM LICENSURE, WHEN. — Neighborhood youth development programs shall be exempt from the child care licensing provisions under this chapter so long as the program meets the following requirements:

- (1) The program is affiliated and in good standing with a national congressionally chartered organization's standards under Title 36, Public Law 105-225;
- (2) The program provides activities designed for recreational, educational, and character building purposes for children six to seventeen years of age;
- (3) The governing body of the program adopts standards for care that at a minimum include staff ratios, staff training, health and safety standards, and mechanisms for assessing and enforcing the program's compliance with the standards;
- (4) The program does not collect compensation for its services except for one-time annual membership dues not to exceed fifty dollars per year or program service fees for special activities such as field trips or sports leagues, except for current exemptions as written in section 210.211;
- (5) The program informs each parent that the operations of the program is not regulated by licensing requirements;
- (6) The program provides a process to receive and resolve parental complaints; and
- (7) The program conducts national criminal background checks for all employees and volunteers who work with children, as well as screening under the family care safety registry as provided in sections 210.900 to 210.936.

453.072. QUALIFIED RELATIVES TO RECEIVE SUBSIDIES, WHEN. — Any subsidies available to adoptive parents pursuant to section 453.073 and section 453.074 shall also be available to a qualified relative of a child who is granted legal guardianship of the child in the same manner as such subsidies are available for adoptive parents[, including income restrictions as provided in subsection 4 of section 453.073]. As used in this section "relative" means any grandparent, aunt, uncle, adult sibling of the child or adult first cousin of the child.

453.073. SUBSIDY TO ADOPTED CHILD — DETERMINATION OF — HOW PAID — WRITTEN AGREEMENT. — 1. The children's division is authorized to grant a subsidy to a child in one of the forms of allotment defined in section 453.065. Determination of the amount of monetary need is to be made by the division at the time of placement, if practicable, and in reference to the needs of the child, including consideration of the physical and mental condition, and age of the child in each case; provided, however, that the subsidy amount shall not exceed the expenses of foster care and medical care for foster children paid under the homeless, dependent and neglected foster care program.

2. The subsidy shall be paid for children who have been in the care and custody of the children's division under the homeless, dependent and neglected foster care program. In the case of a child who has been in the care and custody of a private child-caring or child-placing agency or in the care and custody of the division of youth services or the department of mental health, a subsidy shall be available from the children's division subsidy program in the same manner and under the same circumstances and conditions as provided for a child who has been in the care and custody of the children's division.

3. Within thirty days after the authorization for the grant of a subsidy by the children's division, a written agreement shall be entered into by the division and the parents. The agreement shall set forth the following terms and conditions:

- (1) The type of allotment;
- (2) The amount of assistance payments;
- (3) The services to be provided;
- (4) The time period for which the subsidy is granted [shall not exceed one year. The agreement can be renewed for subsequent years at the discretion of the director. All existing

agreements will have deemed to have expired one year after they were initially entered into], **if such period is reasonably ascertainable;**

(5) The obligation of the parents to inform the division when they are no longer providing support to the child or when events affect the subsidy eligibility of the child;

(6) The eligibility of the child for Medicaid.

[4. The subsidy shall only be granted to children who reside in a household with an income that does not exceed two hundred percent of the federal poverty level or are eligible for Title IV-E adoption assistance.]

Approved July 10, 2008

HB 1952 [HB 1952]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates the bridge over the Gasconade River on U. S. Highway 63 in Maries County as the "Roy Bassett Memorial Bridge"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial bridge.

SECTION

A. Enacting clause.

227.389. Roy Bassett Memorial Bridge designated for U.S. Highway 63 Gasconade River Bridge in Maries County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.389, to read as follows:

227.389. ROY BASSETT MEMORIAL BRIDGE DESIGNATED FOR U.S. HIGHWAY 63 GASCONADE RIVER BRIDGE IN MARIES COUNTY. — **The U.S. Highway 63 Gasconade River Bridge in Maries County shall be designated the "Roy Bassett Memorial Bridge". Costs for such designation shall be paid by friends of Roy Bassett.**

Approved June 17, 2008

HB 1970 [HB 1970]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits a person from initiating a civil action against any licensed motor vehicle dealer with whom the person did not directly and personally negotiate or communicate

AN ACT to amend chapter 407, RSMo, by adding thereto one new section relating to motor vehicle dealers.

SECTION

A. Enacting clause.

407.1373. Private civil action against prohibited except if a commercial relationship existed--definition of commercial relationship.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.1373, to read as follows:

407.1373. PRIVATE CIVIL ACTION AGAINST PROHIBITED EXCEPT IF A COMMERCIAL RELATIONSHIP EXISTED--DEFINITION OF COMMERCIAL RELATIONSHIP. — **Notwithstanding any other provision of law to the contrary, no person, as defined in section 407.010, may bring a private civil action seeking monetary damages or other relief against any licensed motor vehicle dealer with whom such person did not have a commercial relationship. For purposes of this section, "commercial relationship" shall mean a relationship between a person and a licensed motor vehicle dealer which thereby directly results in the retail sale or lease of a motor vehicle or other related merchandise from that motor vehicle dealer to the retail purchaser or lessee but shall not include any motor vehicle dealer in the chain of commerce with whom the purchaser or lessee did not directly and personally negotiate or communicate. No provision in this section shall prohibit a person from pursuing against a manufacturer or seller of a new or used automobile any claim not arising under Chapter 407.**

Approved July 10, 2008

HB 2034 [SCS HCS HB 2034]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding weapons

AN ACT to repeal sections 537.294, 571.010, 571.020, 571.070, and 571.101, RSMo, and to enact in lieu thereof nine new sections relating to weapons, with penalty provisions.

SECTION

- A. Enacting clause.
- 537.294. Firearm ranges — definitions — not to be deemed a nuisance, when — immunity from civil and criminal liability, when.
- 537.355. Private property, permission by owner to hunt, fish, or recreate, limitation on privilege.
- 571.010. Definitions.
- 571.014. Unlawful refusal to transfer by denying sale of a firearm to a nonlicensee, crime of — violation, penalty — inapplicability, when.
- 571.020. Possession — manufacture — transport — repair — sale of certain weapons a crime — exceptions — penalties.
- 571.070. Possession of firearm unlawful for certain persons — penalty.
- 571.072. Unlawful possession of an explosive weapon, crime of — penalty.
- 571.093. Certain records closed to the public.
- 571.101. Concealed carry endorsements, application requirements — approval procedures — issuance of certificates, when — record-keeping requirements — fees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 537.294, 571.010, 571.020, 571.070, and 571.101, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as

sections 537.294, 537.355, 571.010, 571.014, 571.020, 571.070, 571.072, 571.093, and 571.101, to read as follows:

537.294. FIREARM RANGES — DEFINITIONS — NOT TO BE DEEMED A NUISANCE, WHEN — IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY, WHEN. — 1. As used in this section, the [term] **following terms shall mean:**

(1) "Firearm range" [means] , any rifle, pistol, silhouette, skeet, trap, blackpowder or other similar range in this state used for discharging firearms in a sporting event or for practice or instruction in the use of a firearm, or for the testing of a firearm;

(2) **"Hunting preserve", any hunting preserve or licensed shooting area operating under a permit granted by the Missouri department of conservation.**

2. All owners **and authorized users** of firearm ranges [in existence on August 13, 1988,] shall be immune from any criminal **and civil** liability arising out of or as a consequence of noise or sound emission resulting from the [normal] use of any such firearm range. Owners **and users** of such firearm ranges shall not be subject to any **civil action in tort or subject to any action** for public or private nuisance or trespass and no court in this state shall enjoin the use or operation of such firearm ranges on the basis of noise or sound emission resulting from the [normal] use of any such firearm range. [The term "normal use" of a firearm range, as used in this subsection, means the average level of use of the firearm range during the twelve months preceding August 13, 1988] **Any actions by a court in this state to enjoin the use or operation of such firearm ranges and any damages awarded or imposed by a court, or assessed by a jury, in this state against any owner or user of such firearm ranges for nuisance or trespass are null and void.**

3. [All owners of firearms ranges placed in operation after August 13, 1988, shall be immune from any criminal liability and shall not be subject to any action for public or private nuisance or trespass arising out of or as a consequence of noise or sound emission resulting from the normal use of any such firearm range, if such firearm range conforms to any one of the following requirements:

(1) Any area from which any firearm may be properly discharged is at least one thousand yards from any occupied permanent dwelling on adjacent property;

(2) Any area from which any rifle or pistol may be properly discharged is enclosed by a permanent building or structure that absorbs or contains the sound energy escaping from the muzzle of firearms in use; or

(3) If the firearm range is situated on land otherwise subject to land use zoning, the firearm range is in compliance with the requirements of the zoning authority regarding the sound deflection or absorbent baffles, barriers, or other sound emission control requirements] **All owners and authorized users of existing hunting preserves or areas that are designated as hunting preserves after the effective date of this section shall be immune from any criminal and civil liability arising out of or as a consequence of noise or sound emission resulting from the normal use of any such hunting preserve. Owners or authorized users of such hunting preserves shall not be subject to any action for public or private nuisance or trespass, and no court in this state shall enjoin the use or operation of such hunting preserves on the basis of noise or sound emission resulting from normal use of any such hunting preserve.**

4. **Notwithstanding any other provision of law to the contrary, nothing in this section shall be construed to limit civil liability for compensatory damage arising from physical injury to another human, physical injury to tangible personal property, or physical injury to fixtures or structures placed on real property.**

537.355. PRIVATE PROPERTY, PERMISSION BY OWNER TO HUNT, FISH, OR RECREATE, LIMITATION ON PRIVILEGE. — An owner of land who either directly or indirectly invites or permits without charge any person to use such property for hunting or fishing

purposes or other recreational purpose, including but not limited to, any aircraft or ultralight vehicle activity, does not thereby:

(1) Confer upon such person the legal status of an invitee or licensee and owes to such person only the duty of care as is owed to a trespasser under the law;

(2) Without the failure to exercise just ordinary care, assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of such persons while hunting or fishing or engaging in other recreational activities, such as operating aircraft or ultralight vehicles;

(3) Without the failure to exercise just ordinary care, assume responsibility for or incur liability for any injury to persons or property, wherever such persons or property are located, caused while hunting or fishing or engaging in other recreational activities, such as operating aircraft or ultralight vehicles.

571.010. DEFINITIONS. — As used in this chapter, the following terms shall mean:

(1) "Antique, curio or relic firearm" [means] , any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, Section 5845, and the United States Treasury/Bureau of Alcohol Tobacco and Firearms, 27 CFR Section 178.11:

(a) Antique firearm is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof;

(b) Curio or relic firearm is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty years old, associated with a historical event, renown personage or major war;

(2) "Blackjack" [means] , any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use;

(3) **"Blasting agent", any material or mixture, consisting of fuel and oxidizer that is intended for blasting, but not otherwise defined as an explosive under this section, provided that the finished product, as mixed for use of shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined;**

(4) "Concealable firearm" [means] , any firearm with a barrel less than sixteen inches in length, measured from the face of the bolt or standing breech;

[(4)] (5) "Deface" [means] , to alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark;

(6) **"Detonator", any device containing a detonating charge that is used for initiating detonation in an explosive, including but not limited to, electric blasting caps of instantaneous and delay types, non-electric blasting caps for use with safety fuse or shock tube and detonating-cord delay connectors;**

[(5)] (7) "Explosive weapon" [means] , any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon. **For the purposes of this subdivision, the term "explosive" shall mean any chemical compound mixture or device, the primary or common purpose of which is to function by explosion, including but not limited to, dynamite and other high explosives, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cords, igniter cords, and igniters or blasting agents;**

[(6)] (8) "Firearm" [means] , any weapon that is designed or adapted to expel a projectile by the action of an explosive;

[(7)] (9) "Firearm silencer" [means] , any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm;

[(8)] (10) "Gas gun" [means] , any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance;

[(9)] (11) "Intoxicated" [means], substantially impaired mental or physical capacity resulting from introduction of any substance into the body;

[(10)] (12) "Knife" [means] , any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this chapter, "knife" does not include any ordinary pocketknife with no blade more than four inches in length;

[(11)] (13) "Knuckles" [means] , any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles;

[(12)] (14) "Machine gun" [means] , any firearm that is capable of firing more than one shot automatically, without manual reloading, by a single function of the trigger;

[(13)] (15) "Projectile weapon" [means] , any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person;

[(14)] (16) "Rifle" [means] , any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger;

[(15)] (17) "Short barrel" [means] , a barrel length of less than sixteen inches for a rifle and eighteen inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six inches;

[(16)] (18) "Shotgun" [means] , any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth bore barrel by a single function of the trigger;

[(17)] (19) "Spring gun" [means] , any fused, timed or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death;

[(18)] (20) "Switchblade knife" [means] , any knife which has a blade that folds or closes into the handle or sheath, and:

(a) That opens automatically by pressure applied to a button or other device located on the handle; or

(b) That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

571.014. UNLAWFUL REFUSAL TO TRANSFER BY DENYING SALE OF A FIREARM TO A NONLICENSEE, CRIME OF — VIOLATION, PENALTY — INAPPLICABILITY, WHEN. — 1. A person commits the crime of unlawful refusal to transfer by denying sale of a firearm to a non-licensee, who is otherwise not prohibited from possessing a firearm under state or federal law, solely on the basis that the non-licensee purchased a firearm that was later the subject of a trace request by law enforcement.

2. Violation of subsection 1 of this section shall be a class A misdemeanor.

3. Notwithstanding any other provision of law to the contrary, no federal firearms dealer licensed under 18 U.S.C. Section 923 who engages in the sale of firearms within this state shall fail or refuse to complete the sale of a firearm to a customer in every case in which the sale is authorized by federal law.

4. The provisions of this section shall not apply to any individual federal firearms license holder, his agents, or employees to the extent they chose in their individual judgment to not complete the sale or transfer of a firearm for articulable reasons specific

to that transaction, so long as those reasons are not based on the race, gender, religion, creed of the buyer.

571.020. POSSESSION — MANUFACTURE — TRANSPORT — REPAIR — SALE OF CERTAIN WEAPONS A CRIME — EXCEPTIONS — PENALTIES. — 1. A person commits a crime if such person knowingly possesses, manufactures, transports, repairs, or sells:

- (1) An explosive weapon;
- (2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
- (3) A machine gun;
- (4) A gas gun;
- (5) A short barreled rifle or shotgun;
- (6) A firearm silencer;
- (7) A switchblade knife;
- (8) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or
- (9) Knuckles.

2. A person does not commit a crime pursuant to this section if his conduct:

- (1) Was incident to the performance of official duty by the armed forces, national guard, a governmental law enforcement agency, or a penal institution; or
- (2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this section; or
- (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or
- (4) Was incident to displaying the weapon in a public museum or exhibition; or
- (5) Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is a type described in subdivision (1)[,] or (4) [or (6)] of subsection 1 of this section it must be in such a nonfunctioning condition that it cannot readily be made operable. No short barreled rifle, short barreled shotgun, [or] machine gun, **or firearm silencer** may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake, unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C., Title 18, or unless such firearm is an "antique firearm" as defined in subsection 3 of section 571.080, or unless such firearm has been designated a "collectors item" by the Secretary of the Treasury pursuant to the U.S.C., Title 26, Section 5845(a).

3. A crime pursuant to subdivision (1), (2), (3), (4), (5) or (6) of subsection 1 of this section is a class C felony; a crime pursuant to subdivision (7), (8) or (9) of subsection 1 of this section is a class A misdemeanor.

571.070. POSSESSION OF FIREARM UNLAWFUL FOR CERTAIN PERSONS — PENALTY. —

1. A person commits the crime of unlawful possession of a [concealable] firearm if [he] **such person knowingly** has any [concealable] firearm in his **or her** possession and:

- (1) [He has pled guilty to or] Such person has been convicted of a [dangerous] felony[, as defined in section 556.061, RSMo, or of an attempt to commit a dangerous felony] **under the laws of this state**, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a [dangerous] felony[, or confined therefor in this state or elsewhere during the five-year period immediately preceding the date of such possession]; or
- (2) [He] **Such person** is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

2. Unlawful possession of a [concealable] firearm is a class C felony.

571.072. UNLAWFUL POSSESSION OF AN EXPLOSIVE WEAPON, CRIME OF — PENALTY.

— 1. A person commits the crime of unlawful possession of an explosive weapon if he or she has any explosive weapon in his or her possession and:

(1) He or she has pled guilty to or has been convicted of a dangerous felony, as defined in section 556.061, RSMo, or of an attempt to commit a dangerous felony, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a dangerous felony, or confined therefor in this state or elsewhere during the five-year period immediately preceding the date of such possession; or

(2) He or she is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

2. Unlawful possession of an explosive weapon is a class C felony.

571.093. CERTAIN RECORDS CLOSED TO THE PUBLIC. — If any sheriff retains records of permits to obtain concealable firearms issued under former section 571.090, as repealed by senate bills nos. 62 and 41 of the ninety-fourth general assembly, then such records shall be closed to the public. No such record shall be made available for any purpose whatsoever unless its disclosure is mandated by a valid court order relating to a criminal investigation.

571.101. CONCEALED CARRY ENDORSEMENTS, APPLICATION REQUIREMENTS — APPROVAL PROCEDURES — ISSUANCE OF CERTIFICATES, WHEN — RECORD-KEEPING REQUIREMENTS — FEES. — 1. All applicants for concealed carry endorsements issued pursuant to subsection 7 of this section must satisfy the requirements of sections 571.101 to 571.121. If

the said applicant can show qualification as provided by sections 571.101 to 571.121, the county or city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's license with the director of revenue in order to obtain a concealed carry endorsement. Any person who has been issued a concealed carry endorsement on a driver's license or nondriver's license and such endorsement or license has not been suspended, revoked, canceled, or denied may carry concealed firearms on or about his or her person or within a vehicle. A concealed carry endorsement shall be valid for a period of three years from the date of issuance or renewal. The concealed carry endorsement is valid throughout this state.

2. A certificate of qualification for a concealed carry endorsement issued pursuant to subsection 7 of this section shall be issued by the sheriff or his or her designee of the county or city in which the applicant resides, if the applicant:

(1) Is at least twenty-three years of age, is a citizen of the United States and either:

(a) Has [resided] **assumed residency** in this state [for at least six months]; or

(b) Is a member of the armed forces stationed in Missouri, or the spouse of such member of the military;

(2) Has not pled guilty to or entered a plea of nolo contendere or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Has not been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement;

(4) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) Has not been discharged under dishonorable conditions from the United States armed forces;

(6) Has not engaged in a pattern of behavior, documented in public records, that causes the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;

(7) Is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state following a hearing at which the defendant was represented by counsel or a representative;

(8) Submits a completed application for a certificate of qualification as defined in subsection 3 of this section;

(9) Submits an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsections 1 and 2 of section 571.111;

(10) Is not the respondent of a valid full order of protection which is still in effect.

3. The application for a certificate of qualification for a concealed carry endorsement issued by the sheriff of the county of the applicant's residence shall contain only the following information:

(1) The applicant's name, address, telephone number, gender, and date and place of birth;

(2) An affirmation that the applicant [is a resident of the state of] has assumed residency in Missouri [and has been a resident thereof for the last six months] or is a member of the armed forces stationed in Missouri or the spouse of such a member of the armed forces and is a citizen of the United States;

(3) An affirmation that the applicant is at least twenty-three years of age;

(4) An affirmation that the applicant has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) An affirmation that the applicant has not been convicted of, pled guilty to, or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement;

(6) An affirmation that the applicant is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(7) An affirmation that the applicant has not been discharged under dishonorable conditions from the United States armed forces;

(8) An affirmation that the applicant is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter

632, RSMo, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply;

(9) An affirmation that the applicant has received firearms safety training that meets the standards of applicant firearms safety training defined in subsection 1 or 2 of section 571.111;

(10) An affirmation that the applicant, to the applicant's best knowledge and belief, is not the respondent of a valid full order of protection which is still in effect; and

(11) A conspicuous warning that false statements made by the applicant will result in prosecution for perjury pursuant to the laws of the state of Missouri.

4. An application for a certificate of qualification for a concealed carry endorsement shall be made to the sheriff of the county or any city not within a county in which the applicant resides. An application shall be filed in writing, signed under oath and under the penalties of perjury, and shall state whether the applicant complies with each of the requirements specified in subsection 2 of this section. In addition to the completed application, the applicant for a certificate of qualification for a concealed carry endorsement must also submit the following:

(1) A photocopy of a firearms safety training certificate of completion or other evidence of completion of a firearms safety training course that meets the standards established in subsection 1 or 2 of section 571.111; and

(2) A nonrefundable certificate of qualification fee as provided by subsection 10 or 11 of this section.

5. Before an application for a certificate of qualification for a concealed carry endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri driver's license or nondriver's license or military identification and orders showing the person being stationed in Missouri. In order to determine the applicant's suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall be fingerprinted. The sheriff shall request a criminal background check through the appropriate law enforcement agency within three working days after submission of the properly completed application for a certificate of qualification for a concealed carry endorsement. If no disqualifying record is identified by the fingerprint check at the state level, the fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Upon receipt of the completed background check, the sheriff shall issue a certificate of qualification for a concealed carry endorsement within three working days. The sheriff shall issue the certificate within forty-five calendar days if the criminal background check has not been received, provided that the sheriff shall revoke any such certificate and endorsement within twenty-four hours of receipt of any background check that results in a disqualifying record, and shall notify the department of revenue.

6. The sheriff may refuse to approve an application for a certificate of qualification for a concealed carry endorsement if he or she determines that any of the requirements specified in subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable reason to believe that the applicant has rendered a false statement regarding any of the provisions of sections 571.101 to 571.121. If the applicant is found to be ineligible, the sheriff is required to deny the application, and notify the applicant in writing, stating the grounds for denial and informing the applicant of the right to submit, within thirty days, any additional documentation relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff shall reconsider his or her decision and inform the applicant within thirty days of the result of the reconsideration. The applicant shall further be informed in writing of the right to appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114. After two additional reviews and denials by the sheriff, the person submitting the application shall appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114.

7. If the application is approved, the sheriff shall issue a certificate of qualification for a concealed carry endorsement to the applicant within a period not to exceed three working days after his or her approval of the application. The applicant shall sign the certificate of qualification

in the presence of the sheriff or his or her designee and shall within seven days of receipt of the certificate of qualification take the certificate of qualification to the department of revenue. Upon verification of the certificate of qualification and completion of a driver's license or nondriver's license application pursuant to chapter 302, RSMo, the director of revenue shall issue a new driver's license or nondriver's license with an endorsement which identifies that the applicant has received a certificate of qualification to carry concealed weapons issued pursuant to sections 571.101 to 571.121 if the applicant is otherwise qualified to receive such driver's license or nondriver's license. The requirements for the director of revenue to issue a concealed carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the certificate of qualification issued by a county sheriff pursuant to subsection 1 of this section shall allow the person issued such certificate to carry a concealed weapon pursuant to the requirements of subsection 1 of section 571.107 in lieu of the concealed carry endorsement issued by the director of revenue from October 11, 2003, until the concealed carry endorsement is issued by the director of revenue on or after July 1, 2004, unless such certificate of qualification has been suspended or revoked for cause.

8. The sheriff shall keep a record of all applications for a certificate of qualification for a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance of a certificate of qualification to the Missouri uniform law enforcement system. All information on any such certificate that is protected information on any driver's or nondriver's license shall have the same personal protection for purposes of sections 571.101 to 571.121. An applicant's status as a holder of a certificate of qualification or a concealed carry endorsement shall not be public information and shall be considered personal protected information. Any person who violates the provisions of this subsection by disclosing protected information shall be guilty of a class A misdemeanor.

9. Information regarding any holder of a certificate of qualification or a concealed carry endorsement is a closed record.

10. For processing an application for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

11. For processing a renewal for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

12. For the purposes of sections 571.101 to 571.121, the term "sheriff" shall include the sheriff of any county or city not within a county or his or her designee and in counties of the first classification the sheriff may designate the chief of police of any city, town, or municipality within such county.

Approved June 26, 2008

HB 2036 [HCS HB 2036]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Department of Health and Senior Services to equitably distribute to each area agency on aging any additional funds appropriated by the General Assembly for certain elderly services

AN ACT to repeal section 660.099, RSMo, and to enact in lieu thereof one new section relating to appropriation of funds for certain services for the elderly.

SECTION

A. Enacting clause.

660.099. General assembly may make additional appropriations, purposes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 660.099, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 660.099, to read as follows:

660.099. GENERAL ASSEMBLY MAY MAKE ADDITIONAL APPROPRIATIONS, PURPOSES.

— 1. The general assembly may appropriate funds in addition to the amount currently being provided per annum for nutrition services for the elderly. Funds so designated to provide nutrition services for the elderly shall be allocated to the Missouri [division of aging] **department of health and senior services** to be [placed on the formula basis and] **equitably** distributed to each area agency on aging throughout the state of Missouri **based upon formulas promulgated by the department of health and senior services**.

2. The general assembly may appropriate funds in addition to the amount currently being provided per annum through the Missouri elderly and handicapped transportation program. Funds so designated to provide transportation for the elderly and developmentally disabled shall be allocated to the Missouri [division of aging] **department of health and senior services** to be [placed on the formula basis and] **equitably** distributed to each area agency on aging throughout the state of Missouri **based upon formulas promulgated by the department of health and senior services**.

3. The general assembly may appropriate funds in addition to the amount currently being provided per annum for home-delivered meals for the elderly. Such additional funds shall be allocated to the Missouri [division of aging] **department of health and senior services** to be [placed on the formula basis and] **equitably** distributed to each area agency on aging throughout the state of Missouri **based upon formulas promulgated by the department of health and senior services**.

Approved June 10, 2008

HB 2041 [SCS HCS HB 2041]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding employment

AN ACT to repeal sections 178.585, 288.040, 288.042, 288.070, 288.250, and 290.505, RSMo, and to enact in lieu thereof ten new sections relating to employment, with penalty provisions, an effective date for certain sections, and an emergency clause for a certain section.

SECTION

A. Enacting clause.

178.585. Upgrade of vocational and technical education — advisory committees — listing of demand occupations — use of funds.

285.035. Microchip technology, employer not to require employees to be implanted — violation, penalty.

- 288.040. Eligibility for benefits — exceptions — report, contents.
- 288.042. War on terror veterans, defined — eligible for benefits — time period — penalty — offer of similar wages — fund — rulemaking authority.
- 288.070. Claims for benefits — procedure — payment pending appeal.
- 288.131. Unemployment automation surcharge authorized, amount.
- 288.250. Records confidential — privileged communications — violation, penalty.
- 288.312. Unemployment automation fund created, use of moneys.
- 290.505. Overtime compensation, applicable number of hours, exceptions.
- 290.523. Rulemaking authority.
 - B. Effective date.
 - C. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 178.585, 288.040, 288.042, 288.070, 288.250, and 290.505, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 178.585, 285.035, 288.040, 288.042, 288.070, 288.131, 288.250, 288.312, 290.505, and 290.523, to read as follows:

178.585. UPGRADE OF VOCATIONAL AND TECHNICAL EDUCATION — ADVISORY COMMITTEES — LISTING OF DEMAND OCCUPATIONS — USE OF FUNDS. — 1. Under rules and regulations of the state board of education, the commissioner of education, in cooperation with the director of the division of [employment security] **workforce development** of the department of [labor and industrial relations] **economic development**, shall establish procedures to provide grants to public high schools, vocational-technical schools, Linn State Technical College, and community colleges solely for the purpose of new programs, curriculum enhancement, equipment and facilities so as to upgrade vocational and technical education in the state.

2. Each vocational-technical school, community college, Linn State Technical College, and school district of any public high school receiving a grant authorized by this section shall have an advisory committee composed of local business persons, labor leaders, parents, senior citizens, community leaders and teachers to establish a plan to ensure that students who graduate from the vocational-technical school, community college, Linn State Technical College, or public high school proceed to a four-year college or high wage job with workplace-skill development opportunities.

3. [Beginning July 1, 1994,] The director of the [division of employment security of the] department of [labor and industrial relations] **economic development** shall provide annually to the commissioner of education a listing of demand occupations in the state including substate projections. The listing shall include those occupations for which, in the judgment of the director of the [division of employment security] **department of economic development**, there is a critical shortage to meet present or future employment needs necessary to the economic growth and competitiveness of the state.

4. In any fiscal year, at least seventy-five percent of all moneys for the grant awards authorized by this section shall be to public high schools, vocational-technical schools, Linn State Technical College, or community colleges for new programs, curriculum enhancement or equipment necessary to address demand occupations identified pursuant to subsection 3 of this section.

285.035. MICROCHIP TECHNOLOGY, EMPLOYER NOT TO REQUIRE EMPLOYEES TO BE IMPLANTED — VIOLATION, PENALTY. — 1. No employer shall require an employee to have personal identification microchip technology implanted into the employee for any reason.

2. For purposes of this section, "personal identification microchip technology" means a subcutaneous or surgically implanted microchip technology device or product that contains or is designed to contain a unique identification number and personal

information that can be non-invasively retrieved or transmitted with an external scanning device.

3. Any employer who violates this section is guilty of a class A misdemeanor.

288.040. ELIGIBILITY FOR BENEFITS — EXCEPTIONS — REPORT, CONTENTS. — 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; however, upon application of the employer responsible for the claimant's unemployment, such eight-week period may be extended not to exceed a total of sixteen weeks at the discretion of the director;

(3) The claimant has reported in person to an office of the division as directed by the deputy, but at least once every four weeks, except that a claimant shall be exempted from the reporting requirement of this subdivision if:

(a) The claimant is claiming benefits in accordance with division regulations dealing with partial or temporary total unemployment; or

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; or

(c) The claimant resides in a county with an unemployment rate, as published by the division, of ten percent or more and in which the county seat is more than forty miles from the nearest division office;

(d) The director of the division of employment security has determined that the claimant belongs to a group or class of workers whose opportunities for reemployment will not be enhanced by reporting in person, or is prevented from reporting due to emergency conditions that limit access by the general public to an office that serves the area where the claimant resides, but only during the time such circumstances exist.

Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant was scheduled to claim and shall end on the last day of the week preceding the week during which the claimant does report in person to the division's office;

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he or she has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period. No week shall be counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;

(5) The claimant has made a claim for benefits **within fourteen days from the last day of the week being claimed. The fourteen-day period may, for good cause, be extended to twenty-eight days;**

(6) **The claimant has reported to an employment office to participate in a reemployment assessment and reemployment services as directed by the deputy or designated staff of an employment office, unless the deputy determines that good cause exists for the claimant's failure to participate in such reemployment assessment and reemployment services. For purposes of this section, "reemployment services" may include, but not be limited to, the following:**

- (a) **Providing an orientation to employment office services;**
- (b) **Providing job search assistance; and**
- (c) **Providing labor market statistics or analysis;**

Ineligibility under this subdivision shall begin on the first day of the week which the claimant was scheduled to report for the reemployment assessment or reemployment services and shall end on the last day of the week preceding the week during which the claimant does report in person to the employment office for such reemployment assessment or reemployment services;

[(6)] (7) The claimant is participating in reemployment services, such as job search assistance services, as directed by the deputy if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the division, unless the deputy determines that:

- (a) The individual has completed such reemployment services; or
- (b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as discharges.

3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this law; except that:

(a) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) With respect to services performed in any capacity (other than instructional, research, or principal administrative capacity) for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform such services in the second of such academic years or terms;

(c) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performed such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services immediately following such vacation period or holiday recess;

(d) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits payable on the basis of services in any such capacity shall be denied as specified in paragraphs (a), (b), and (c) of this subdivision to any individual who performed such services at an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work benefits for any week for which he or she is receiving or has received remuneration exceeding his or her weekly benefit amount or shared work benefit amount in the form of:

(a) Compensation for temporary partial disability pursuant to the workers' compensation law of any state or pursuant to a similar law of the United States;

(b) A governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such claimant to the extent that such payment is provided from funds provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by such employer; but, except for such payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of this paragraph shall not apply if the services performed for such employer by the claimant after the beginning of the base period (or remuneration for such services) do not affect eligibility for or increase the amount of such pension, retirement or retired pay, annuity or similar payment.

(2) If the remuneration referred to in this subsection is less than the benefits which would otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one dollar, such amount shall be lowered to the next multiple of one dollar.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant to such federal law shall be deductible from the amount of benefits received pursuant to this chapter.

5. A claimant shall be ineligible for waiting week credit or benefits for any week for which or a part of which he or she has received or is seeking unemployment benefits pursuant to an unemployment insurance law of another state or the United States; provided, that if it be finally determined that the claimant is not entitled to such unemployment benefits, such ineligibility shall not apply.

6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds that such claimant's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute in the factory, establishment or other premises in which such claimant is or was last employed. In the event the claimant secures other employment from which he or she is separated during the existence of the labor dispute, the claimant must have obtained bona fide employment as a permanent employee for at least the major part of each of two weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same

premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment or other premises. This subsection shall not apply if it is shown to the satisfaction of the deputy that:

(a) The claimant is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The claimant does not belong to a grade or class of workers of which, immediately preceding the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) "Stoppage of work" as used in this subsection means a substantial diminution of the activities, production or services at the establishment, plant, factory or premises of the employing unit. This definition shall not apply to a strike where the employees in the bargaining unit who initiated the strike are participating in the strike. Such employees shall not be eligible for waiting week credit or benefits during the period when the strike is in effect, regardless of diminution, unless the employer has been found guilty of an unfair labor practice by the National Labor Relations Board or a federal court of law for an act or actions preceding or during the strike.

7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

8. Benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

9. The directors of the division of employment security and the division of workforce development shall submit to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than October 15, 2006, a report outlining their recommendations for how to improve work search verification and claimant reemployment activities. The recommendations shall include, but not limited to how to best utilize "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each calendar year thereafter, the directors shall submit a report containing their recommendations on these issues by December thirty-first of each year.

288.042. WAR ON TERROR VETERANS, DEFINED — ELIGIBLE FOR BENEFITS — TIME PERIOD — PENALTY — OFFER OF SIMILAR WAGES — FUND — RULEMAKING AUTHORITY.

— 1. For purposes of this section, a "war on terror veteran" is a Missouri resident who serves or has served in the military and to whom the following criteria apply:

(1) The person is or was a member of the [Missouri] national guard or a member of a United States armed forces reserves unit who was officially domiciled in the state of Missouri immediately prior to deployment;

(2) The person was deployed as part of his or her military unit at any time after September 11, 2001, and such deployment caused the person to be unable to continue working for his or her employer;

(3) The person was employed either part time or full time before deployment; and

(4) A Missouri court or United States district court located in Missouri has found that the person was discharged from or laid off from his or her nonmilitary employment during deployment or within thirty days after the completion of his or her deployment.

2. Notwithstanding any provisions of sections 288.010 to 288.500, any war on terror veteran shall be entitled to receive veterans' unemployment compensation benefits under this section. A war on terror veteran shall be entitled to a weekly benefit amount of eight percent of the wages paid to the war on terror veteran during that calendar quarter during which the war on terror veteran earned the highest amount within the five completed calendar quarters during which the war on terror veteran received wages immediately before deployment. The maximum amount of a weekly benefit amount shall be one thousand one hundred fifty-three dollars and sixty-four cents.

3. A war on terror veteran shall be entitled to a weekly benefit amount for twenty-six weeks. [The division may collect erroneously paid benefits in the manner provided in sections 288.160 and 288.170.] **The division of employment security shall pursue recovery of overpaid unemployment compensation benefits against any person receiving such overpaid benefits through billing, setoffs against state tax refunds, setoffs against federal tax refunds to the extent permitted by federal law, intercepts of lottery winnings under section 313.321, RSMo, and collection efforts as provided for in sections 288.160, 288.170, and 288.175.**

4. Any employer who is found in any Missouri court or United States district court located in Missouri to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to his or her absence while deployed shall be subject to an administrative penalty in the amount of thirty-five thousand dollars. The director of the division of employment security shall take judicial notice of judgments in suits brought under the Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. 4301). Such judgments may be considered to have a res judicata effect on the director's determination. The administrative penalty shall be collectible in the manner provided in sections 288.160 and 288.170.

5. A war on terror veteran shall be considered to have been discharged from his or her employment if he or she is not offered the same wages, benefits, and similar work schedule upon his or her return after deployment.

6. There is hereby created in the state treasury the "War on Terror Unemployment Compensation Fund", which shall consist of money collected under this section and such other state funds appropriated by the general assembly. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration, including payment of benefits and refunds, of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and money earned on such investments shall be credited to the fund.

7. The division of employment security may promulgate rules to enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

288.070. CLAIMS FOR BENEFITS — PROCEDURE — PAYMENT PENDING APPEAL. — 1.

All claims shall be made in accordance with such regulations as the division may prescribe; except that such regulations shall not require the filing of a claim for benefits by the claimant in person for a week of unemployment occurring immediately prior to the claimant's reemployment, but claims in such cases may be made by mail, or otherwise if authorized by regulation. Notice of each initial claim filed by an insured worker which establishes the beginning of such worker's benefit year shall be promptly mailed by the division to each base period employer of such individual, **except notice of an initial claim shall not be mailed to any contributing base period employer which paid such individual gross wages in the amount of four hundred dollars or less during such individual's base period**, and to the last employing unit whose name is furnished by the individual when such individual files such claim. In similar manner, a notice of each renewed claim filed by an insured worker during a benefit year after a period in such year during which the insured worker was employed shall be given to the last employing unit whose name is furnished by the individual when the individual files such renewed claim or to any other base period or subsequent employer of the worker who has requested such a notice. Any such base period employer or any employing unit, which employed the claimant since the beginning of the base period, who within ten calendar days after the mailing of notice of the initial claim or a renewed claim to the employer or employing unit's last known address files a written protest against the allowance of benefits, and any employing unit from whom the claimant was separated during a week [of continued claim] **claimed** other than a week in which an initial or renewed claim is effective, shall be deemed an interested party to any determination allowing benefits during the benefit year until such time as the issue or issues raised by the protest are resolved by a determination or decision which has become final.

2. If the last employer or any base period employer files a written protest against the allowance of benefits based upon the claimant's refusal to accept suitable work when offered the claimant, either through the division or directly by such last or base period employer, and such protest is filed within ten calendar days of the claimant's refusal of work, such employer shall be deemed an interested party to any determination concerning the claimant's refusal of work until such time as the issue or issues raised by the protest are resolved by a determination or decision which has become final.

3. Any base period employer or any employing unit, which employed the claimant since the beginning of the base period, who files a written protest against the allowance of benefits based upon the claimant not being able to work or available for work shall be deemed an interested party to any determination concerning claimant's ability to work or availability for work until such time as the issue or issues raised by the protest are resolved by a determination or decision which has become final.

[2.] **4.** A deputy shall promptly examine each initial claim and make a determination of the claimant's status as an insured worker. Each such determination shall be based on a written statement showing the amount of wages for insured work paid to the claimant by each employer during the claimant's base period and shall include a finding as to whether such wages meet the requirements for the claimant to be an insured worker, and, if so, the first day of the claimant's benefit year, the claimant's weekly benefit amount, and the maximum total amount of benefits which may be payable to the claimant for weeks of unemployment in the claimant's benefit year. The deputy shall in respect to all claims for benefits thereafter filed by such individual in the claimant's benefit year make a written determination as to whether and in what amount the claimant is entitled to benefits for the week or weeks with respect to which the determination is made. Whenever claims involve complex questions of law or fact, the deputy, with the approval of the director, may refer such claims to the appeals tribunal, without making a determination, for a fair hearing and decision as provided in section 288.190.

[3.] **5.** The deputy shall, in writing, promptly notify the claimant of such deputy's determination on an initial claim, including the reason therefor, and a copy of the written statement as provided in subsection [2] **4** of this section. The deputy shall promptly notify the

claimant and all other interested parties of such deputy's determination on any claim for benefits and shall give the reason therefor; except that, where a determination on a later claim for benefits in a benefit year is the same as the determination on a preceding claim, no additional notice shall be given. A determination shall be final, when unappealed, in respect to any claim to which it applies except that an appeal from a determination on a claim for benefits shall be considered as an appeal from all later claims to which the same determination applies. The deputy may, however, not later than one year following the end of a benefit year, for good cause, reconsider any determination on any claim and shall promptly notify the claimant and other interested parties of such deputy's redetermination and the reasons therefor. Whenever the deputy shall have notified any interested employer of the denial of benefits to a claimant for any week or weeks and shall thereafter allow benefits to such claimant for a subsequent week or weeks, the deputy shall notify such interested employer of the beginning date of the allowance of benefits for such subsequent period.

[4.] **6.** Unless the claimant or any interested party within thirty calendar days after notice of such determination is either delivered in person or mailed to the last known address of such claimant or interested party files an appeal from such determination, it shall be final. If, pursuant to a determination or redetermination, benefits are payable in any amount or in respect to any week as to which there is no dispute, such amount of benefits shall be promptly paid regardless of any appeal.

[5.] **7.** Benefits shall be paid promptly in accordance with a determination or redetermination pursuant to this section, or the decision of an appeals tribunal, the labor and industrial relations commission of Missouri or a reviewing court upon the issuance of such determination, redetermination or decision (regardless of the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review as provided in this section, or section 288.190, 288.200, or 288.210, as the case may be, or the pendency of any such application, appeal, or petition) unless and until such determination, redetermination or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modified or reversed redetermination or decision.

[6.] **8.** Benefits paid during the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review or during the pendency of any such application, appeal, or petition shall be considered as having been due and payable regardless of any redetermination or decision unless the modifying or reversing redetermination or decision establishes that the claimant willfully failed to disclose or falsified any fact which would have disqualified the claimant or rendered the claimant ineligible for such benefits as contemplated in subsection 9 of section 288.380.

[7.] **9.** Benefits paid during the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review or during the pendency of any such application, appeal, or petition which would not have been payable under a redetermination or decision which becomes final shall not be chargeable to any employer. Beginning with benefits paid on and after January 1, 1998, the provisions of this subsection shall not apply to employers who have elected to make payments in lieu of contributions pursuant to subsection 3 of section 288.090.

[8.] **10.** The ten-day period mentioned in [subsection] **subsections 1 and 2** of this section and the thirty-day period mentioned in subsection [4] **6** of this section may, for good cause, be extended.

11. Any notice of claim or notice of determination required to be mailed by the division to an employer or claimant under this section may be transmitted electronically by the division to any employer or claimant requesting such method of delivery. The date the division transmits such notice of claim or notice of determination shall be deemed the date of mailing for purposes of filing a protest to the notice or claim or filing an appeal concerning a notice of determination.

288.131. UNEMPLOYMENT AUTOMATION SURCHARGE AUTHORIZED, AMOUNT. — For calendar years 2009, 2010, and 2011, each employer that is liable for contributions under this chapter, except employers with a contribution rate equal to zero, shall pay an annual unemployment automation surcharge in an amount equal to five one-hundredths of one percent of such employer's total taxable wages for the twelve-month period ending the preceding June thirteenth. However, the division may reduce the foregoing percentage to ensure that the total amount of surcharge due from all employers under this subsection shall not exceed thirteen million dollars annually. Each employer liable to pay such surcharge shall be notified of the amount due under this subsection by March thirty-first of each year and such amount shall be considered delinquent thirty days thereafter. Delinquent unemployment automation surcharge amounts may be collected in the manner provided under sections 288.160 and 288.170. All moneys collected under this subsection shall be deposited in the unemployment automation fund established in section 288.312.

2. For calendar years 2009, 2010, and 2011, the otherwise applicable unemployment contribution rate of each employer liable for contributions under this chapter shall be reduced by five one-hundredths of one percent, except such contribution rate shall not be less than zero.

288.250. RECORDS CONFIDENTIAL — PRIVILEGED COMMUNICATIONS — VIOLATION, PENALTY. — 1. Information obtained from any employing unit or individual pursuant to the administration of this law, shall be held confidential and shall not be published, **further disclosed**, or be open to public inspection [(other than to public employees in the performance of their public duties, including, but not limited to, the division of child support enforcement, other child support agencies of the federal government or other states as provided for under chapter 454, RSMo, or federal statutes)] in any manner revealing the individual's or employing unit's identity, but any claimant or employing unit or their authorized representative shall be supplied with information from the division's records to the extent necessary for the proper preparation and presentation of any claim for unemployment compensation benefits or protest of employer liability. Further, upon receipt of a written request from a claimant or his or her authorized representative, the division shall supply information previously submitted to the division by the claimant, the claimant's wage history and the claimant's benefit payment history. In addition, upon receipt of a written request from an authorized representative of an employing unit, the division shall supply information previously submitted to the division by the employing unit, and information concerning the payment of benefits from the employer's account and the unemployment compensation fund, including amounts paid to specific claimants. **A state or federal official or agency may receive disclosures to the extent required by federal law. In the division's discretion, any other party may receive disclosures to the extent authorized by state and federal law.** Any information obtained by the division in the administration of this law shall be privileged and no individual or type of organization shall be held liable for slander or libel on account of any such information.

2. Any person who intentionally discloses or otherwise fails to protect confidential information in violation of this section shall be guilty of a class A misdemeanor. For a second or subsequent violation, the person shall be guilty of a class D felony.

288.312. UNEMPLOYMENT AUTOMATION FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Unemployment Automation Fund", with shall consist of money collected under subsection 1 of section 288.131, and such other state funds appropriated by the general assembly. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the purpose of providing automated systems, and the payment of associated costs, to improve the administration of the state's unemployment insurance program. Notwithstanding the

provisions of section 33.080, RSMo, to the contrary, all moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and money earned on such investments shall be credited to the fund.

2. The unemployment automation fund shall not be used in whole or in part for any purpose or in any manner that would permit its substitution for, or a corresponding reduction in, federal funds that would be available in its absence to finance expenditures for the administration of this chapter, or cause the appropriate agency of the United States government to withhold any part of an administrative grant which would otherwise be made.

290.505. OVERTIME COMPENSATION, APPLICABLE NUMBER OF HOURS, EXCEPTIONS.

— 1. No employer shall employ any of his employees for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

2. Employees of an amusement or recreation business that meets the criteria set out in 29 U.S.C. 213(a) (3) must be paid one and one-half times their regular compensation for any hours worked in excess of fifty-two hours in any one-week period.

3. With the exception of employees described in subsection (2), the overtime requirements of subsection (1) shall not apply to employees who are exempt from federal minimum wage or overtime requirements [pursuant to 29 U.S.C. §§ 213(a)-(b)] **including, but not limited to, the exemptions or hour calculation formulas specified in 29 U.S.C. Sections 207 and 213, and any regulations promulgated thereunder.**

4. Except as may be otherwise provided under sections 290.500 to 290.530, this section shall be interpreted in accordance with the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended, and the Portal to Portal Act, 29 U.S.C. Section 251, et seq., as amended, and any regulations promulgated thereunder.

290.523. RULEMAKING AUTHORITY. — The department may, in accordance with chapter 536, RSMo, promulgate such rules and regulations as are necessary for the enforcement and administration of sections 290.500 to 290.530. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

SECTION B. EFFECTIVE DATE. — Sections 178.585, 288.040, 288.042, 288.070, and 288.250 of this act shall become effective October 1, 2008.

SECTION C. EMERGENCY CLAUSE. — Because of the need to preserve federal standards relating to overtime payments to employees, section 290.505 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 290.505 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2008

HB 2047 [SCS HB 2047]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding certain cities' power to grade streets and increases the rate of a special road rock fund tax in certain counties

AN ACT to repeal sections 88.917 and 231.444, RSMo, and to enact in lieu thereof two new sections relating to maintenance of roadways.

SECTION

A. Enacting clause.

88.917. Street grading (cities, 300,000 or over).

231.444. County road tax — Carter, Holt, Knox, Schuyler, Scotland and Worth counties — special road rock fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 88.917 and 231.444, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 88.917 and 231.444, to read as follows:

88.917. STREET GRADING (CITIES, 300,000 OR OVER). — Every city now having or which may at any time hereafter have a population of three hundred thousand inhabitants or over shall have at all times the power to establish the grade and change the grade already established, of any street, alley, avenue, public highway or public place, or any part thereof, as often as it may be deemed best for the public interest, and to cause the same or any part thereof to be graded to the established grade or to any change thereof[;]. Provided, however, that when a change is proposed to be made in the grade of any street, alley, avenue, public highway or public place, or any part thereof, which has once been established, the [two houses of legislation of such] city shall by [resolution] **ordinance** declare the work of improvement to be necessary, and cause such [resolution] **ordinance**, or the substance thereof, to be published in the newspaper doing the city printing, for ten days, Sundays included[; and]. Unless the resident owners of the city who shall own the majority in front feet of all the lands belonging to such residents fronting on the street, alley, avenue, public highway, public place, or part thereof to be improved, [shall,] within thirty days after the first day of the publication of such [resolution] **ordinance**, file with the city register their remonstrance against the proposed change, then the [two houses of legislation of such city shall have power by] ordinance to cause the proposed change to be made[;] **shall become effective**. Provided further, however, that when the charter of any such city shall require that such [resolution or] ordinance shall, before being passed, be recommended by a board of public improvements, or other authority of such city, then the same shall, before being passed, be recommended as therein required. If the remonstrance of the resident property owners above mentioned shall be filed with the city register, as herein provided, the [power of the two houses of legislation] **ordinance** to make the proposed change in the grade of such street, alley, avenue, public highway or public place, or any part thereof, shall [cease] **not become effective** until a sufficient number of the persons so remonstrating or their grantees shall, in writing, withdraw their names or the property represented by them from such remonstrance, so that said remonstrance shall cease to represent a majority of the resident owners as above provided[, when the two houses of legislation may again proceed in the manner above mentioned].

231.444. COUNTY ROAD TAX — CARTER, HOLT, KNOX, SCHUYLER, SCOTLAND AND WORTH COUNTIES — SPECIAL ROAD ROCK FUND. — 1. In addition to other levies authorized

by law, the governing body of any county of the third classification without a township form of government having a population [in excess of four thousand two hundred and less than six thousand] **of less than six thousand inhabitants** according to the most recent decennial census [or any county of the third classification without a township form of government and with more than two thousand three hundred but fewer than two thousand four hundred inhabitants] may by ordinance levy and impose a tax pursuant to this section which shall not exceed the rate of [twenty-five cents] **one-dollar** on each acre of real property in the county which is classified as agricultural and horticultural property pursuant to section 137.016, RSMo.

2. The proceeds of the tax authorized pursuant to this section shall be collected by the county collector and remitted to the county treasurer who shall deposit such proceeds in a special fund to be known as the "Special Road Rock Fund". All moneys in the special road rock fund shall be appropriated by the county governing body for the sole purpose of purchasing road rock to be placed on county roads within the boundaries of the county.

3. The ordinance levying and imposing a tax pursuant to subsection 1 of this section shall not be effective unless the county governing body submits to the qualified voters of the county a proposal to authorize the county governing body to levy and impose the tax at an election permitted pursuant to section 115.123, RSMo. The ballot of submission proposing the tax shall be in substantially the following form:

Shall the county of (county's name) be authorized to levy and impose a tax on all real property in the county which is classified as agricultural or horticultural property at a rate not to exceed (rate of tax) cents per acre with all the proceeds of the tax to be placed in the "Special Road Rock Fund" and used solely for the purpose of purchasing road rock to be placed on county roads within the boundaries of the county?

☐ YES ☐ NO

4. If a majority of the qualified voters of the county voting on the proposal vote "YES", then the governing body of the county may by ordinance levy and impose the tax authorized by this section in an amount not to exceed the rate proposed in the ballot of submission. If a majority of the qualified voters of the county voting on the proposal vote "NO", then the governing body of the county shall not levy and impose such tax. Nothing in this section shall prohibit a rejected proposal from being resubmitted to the qualified voters of the county at an election permitted pursuant to section 115.123, RSMo.

Approved June 19, 2008

HB 2048 [SCS HCS HB 2048]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Textbook Transparency Act

AN ACT to amend chapter 173, RSMo, by adding thereto one new section relating to college textbooks.

SECTION

A. Enacting clause.

173.955. Citation of law — definitions — information to be provided to faculty, when — use of financial aid for purchase of textbooks, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 173, RSMo, is amended by adding thereto one new section, to be known as section 173.955, to read as follows:

173.955. CITATION OF LAW — DEFINITIONS — INFORMATION TO BE PROVIDED TO FACULTY, WHEN — USE OF FINANCIAL AID FOR PURCHASE OF TEXTBOOKS, WHEN. — 1. The provisions of this section shall be known as the "Textbook Transparency Act". For purposes of this section, the following terms mean:

(1) "Adopter", any faculty member or academic department at an approved institution of higher education responsible for considering and choosing course materials to be utilized in connection with the accredited courses taught at the approved institution of higher education;

(2) "Approved institution of higher education", an educational institution located in Missouri which:

(a) Is directly controlled or administered by a public agency or political subdivision;

(b) Receives appropriations directly or indirectly from the general assembly for operating expenses;

(c) Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

(d) Meets the standards for accreditation as determined by either the North Central Association of Colleges and Secondary Schools, or if a public junior college created under the provisions of sections 178.370 to 178.400, RSMo, meets the standards established by the coordinating board for higher education for such public junior colleges, or by other accrediting bodies recognized by the United States Office of Education or by utilizing accreditation standards applicable to the institution as established by the coordinating board for higher education;

(e) Does not discriminate in the hiring of administrators, faculty and staff or in the admission of students on the basis of race, color, religion, sex, or national origin and is otherwise in compliance with the federal Civil Rights Acts of 1964 and 1968 and executive orders issued pursuant thereto; and

(f) Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source;

(3) "College textbook", a textbook or a set of textbooks used for a course of postsecondary education at an approved public institution of higher education;

(4) "Integrated textbook", a college textbook that:

(a) Is combined with materials developed by a third party and that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the materials are combined; or

(b) Includes functionally interdependent course materials designed to be used solely as a single unit and whose separation would substantially degrade the academic content so that it would not be usable to the student;

(5) "Products", all versions of a college textbook or set of college textbooks, except custom textbooks or special editions of textbooks, available in the subject area for which a prospective purchaser is teaching a course, including supplemental material, both when sold together or separately from a college textbook;

(6) "Supplemental material", educational material that may accompany a college textbook, including printed materials, computer disks, website access, and electronically distributed materials, that is neither:

(a) Bound by third-party contractual agreements to be sold in an integrated textbook; nor

(b) A component of an integrated textbook.

2. Each publisher of college textbooks shall provide, upon request, the following information to faculty members or adopters at an approved institution of higher

education, whenever the publisher provides a faculty member or adopter with information about the publisher's products:

(1) The price at which the publisher would make the products available to the campus bookstore;

(2) The substantial content revisions for such products made between a current textbook edition and the previous edition, if any;

(3) The copyright dates of all previous editions of such college textbook in the preceding ten years, if any; and

(4) Whether the products are available in any other format, including paperback and unbound, and the price at which the publisher would make the products in the other formats available to the campus bookstore.

3. A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundle shall also make available the college textbook and each supplemental material as separate and unbundled items, each separately priced.

4. Where existing technology and contracts make it feasible, an approved public institution of higher education shall develop a policy that permits students to use financial aid that has not been disbursed for tuition or fees to purchase required textbooks for courses taught at the institution at stores on the campus of the institution.

5. To the extent practicable, an approved institution of higher education shall encourage faculty members or adopters to place their initial orders for college textbooks with sufficient time for the campus bookstore to factor such information into student buyback, research the availability of the course material, and exchange, when appropriate, relevant information with faculty to support effective use of course materials such as bundles and to promote cost efficiencies for students.

Approved June 25, 2008

HB 2058 [SS SCS HCS HB 2058]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding tax incentives for business development

AN ACT to repeal sections 32.057, 32.105, 67.1501, 67.1545, 99.820, 105.485, 135.305, 135.348, 135.800, 135.805, 135.815, 135.967, 137.115, 260.285, 348.436, 353.150, 447.708, 620.1878, and 620.1881, RSMo, section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, and to enact in lieu thereof with twenty-three new sections relating to tax incentives for business development.

SECTION

A. Enacting clause.

32.057. Confidentiality of tax returns and department records — exceptions — penalty for violation.

32.105. Definitions.

67.1501. Funding of district.

67.1545. Sales and use tax authorized in certain districts — procedure to adopt, ballot language, imposition and collection by retailers — penalties for violations — deposit into trust fund, use — repeal procedure.

99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.

- 99.825. Adoption of ordinance for redevelopment, public hearing required — objection procedure — hearing and notices not required, when — restrictions on certain projects.
- 99.825. Adoption of ordinance for redevelopment, public hearing required — objection procedure — hearing and notices not required, when — restrictions on certain projects.
- 105.485. Financial interest statements — form — contents — political subdivisions, compliance.
- 105.1270. No conflict of interest for state — authorized tax credits, abatements, exemptions, or loans, when.
- 135.305. Eligibility — amount of tax credit.
- 135.682. Letter rulings to be issued, procedure — letter rulings closed records.
- 135.800. Citation — definitions.
- 135.803. Ineligibility based on conflict of interests when.
- 135.805. Certain information to be submitted annually, who, time period — due date of reporting requirements — requirements to apply to certain recipients, when — applicant in compliance, when, written notification, when, records available for review — effective date — names of recipients to be made public.
- 135.815. Verification of applicant's tax payment status, when, effect of delinquency — employment of unauthorized aliens, effect of.
- 135.967. Tax credit allowed, duration — prohibition on receiving other tax credits — limitations on issuance of tax credits — cap — eligibility of certain expansions — employee calculations — computation of credit — flow-through tax treatments — credits may be claimed, when — certificates — refunds — verification procedures.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 144.057. All tangible personal property on U.S. munitions list, exempt from state and local sales and use tax.
- 348.436. Expiration date.
- 353.150. Borrowing of money and giving of security by corporation.
- 447.708. Tax credits, criteria, conditions — definitions.
- 620.050. Council created, members, appointment — registration fee — fund established, use of moneys — council duties — rulemaking authority.
- 620.1878. Definitions.
- 620.1881. Project notice of intent, department to respond with a proposal or a rejection — benefits available — effect on withholding tax — projects eligible for benefits — annual report — cap on tax credits — allocation of tax credits.
- 135.348. Tax credit for sponsorship and mentoring program.
- 260.285. Manufacturer recycling flexible cellulose casing eligible for tax credit — claim procedure — fraudulent claim, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.057, 32.105, 67.1501, 67.1545, 99.820, 105.485, 135.305, 135.348, 135.800, 135.805, 135.815, 135.967, 137.115, 260.285, 348.436, 353.150, 447.708, 620.1878, and 620.1881, RSMo, section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 32.057, 32.105, 67.1501, 67.1545, 99.820, 99.825, 105.485, 105.1270, 135.305, 135.682, 135.800, 135.803, 135.805, 135.815, 135.967, 137.115, 144.057, 348.436, 353.150, 447.708, 620.050, 620.1878, and 620.1881, to read as follows:

32.057. CONFIDENTIALITY OF TAX RETURNS AND DEPARTMENT RECORDS — EXCEPTIONS — PENALTY FOR VIOLATION. — 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any

information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

(a) To a taxpayer or the taxpayer's duly authorized representative under regulations which the director of revenue may prescribe;

(b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue laws of this state;

(c) To the state auditor or the auditor's duly authorized employees as required by subsection 4 of this section;

(d) To any city officer designated by ordinance of a city within this state to collect a city earnings tax, upon written request of such officer, which request states that the request is made for the purpose of determining or enforcing compliance with such city earnings tax ordinance and provided that such information disclosed shall be limited to that sufficient to identify the taxpayer, and further provided that in no event shall any information be disclosed that will result in the department of revenue being denied such information by the United States or any other state. The city officer requesting the identity of taxpayers filing state returns but not paying city earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax, and the director shall compare the list submitted with the director's records and return to such city official the name and address of any taxpayer who is a resident of such city who has filed a state tax return but who does not appear on the list furnished by such city. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information;

(e) To any employee of any county or other political subdivision imposing a sales tax which is administered by the state department of revenue whose office is authorized by the governing body of the county or other political subdivision to receive any and all records of the state director of revenue pertaining to the administration, collection and enforcement of its sales tax. The request for sales tax records and reports shall include a description of the type of report requested, the media form including electronic transfer, computer tape or disk, or printed form, and the frequency desired. The request shall be made by annual written application and shall be filed with the director of revenue. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information. Such city or county or any employee thereof shall be subject to the same standards for confidentiality as required for the department of revenue in using the information contained in the reports;

(f) To the director of the department of economic development or the director's duly authorized employees in discharging the director's official duties to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

(g) To any employee of any political subdivision, such records of the director of revenue pertaining to the administration, collection and enforcement of the tax imposed in chapter 149, RSMo, as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such political subdivision. The request for such records shall be made in writing to the director of revenue, and shall include a description of the type of information requested and the desired frequency. The director of revenue may charge a fee to reimburse the department for costs reasonably incurred in providing such information;

(2) The publication by the director of revenue or of the state auditor in the audit reports relating to the department of revenue of:

(a) Statistics, statements or explanations so classified as to prevent the identification of any taxpayer or of any particular reports or returns and the items thereof;

(b) The names and addresses without any additional information of persons who filed returns and of persons whose tax refund checks have been returned undelivered by the United States Post Office;

(3) The director of revenue from permitting the Secretary of the Treasury of the United States or the Secretary's delegates, the proper officer of any state of the United States imposing a tax equivalent to any of the taxes administered by the department of revenue of the state of Missouri or the appropriate representative of the multistate tax commission to inspect any return or report required by the respective tax provision of this state, or may furnish to such officer an abstract of the return or report or supply the officer with information contained in the return or disclosed by the report of any authorized investigation. Such permission, however, shall be granted on condition that the corresponding revenue statute of the United States or of such other state, as the case may be, grants substantially similar privileges to the director of revenue and on further condition that such corresponding statute gives confidential status to the material with which it is concerned;

(4) The disclosure of information, returns, reports, or facts shown thereby, by any person on behalf of the director of revenue, in any action or proceeding to which the director is a party or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state when such information is directly involved in the action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such information as is pertinent to the action or proceeding and no more;

(5) The disclosure of information, returns, reports, or facts shown thereby, by any person to a state or federal prosecuting official, including, but not limited to, the state and federal attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil investigation, action or proceeding pursuant to the laws of this state or of the United States when such information is pertinent to an investigation, action or proceeding involving the administration of the revenue laws or duties of public office or employment connected therewith;

(6) Any school district from obtaining the aggregate amount of the financial institution tax paid pursuant to chapter 148, RSMo, by financial institutions located partially or exclusively within the school district's boundaries, provided that the school district request such disclosure in writing to the department of revenue;

(7) The disclosure of records which identify all companies licensed by this state pursuant to the provisions of subsections 1 and 2 of section 149.035, RSMo. The director of revenue may charge a fee to reimburse the department for the costs reasonably incurred in providing such records;

(8) The disclosure to the commissioner of administration pursuant to section 34.040, RSMo, of a list of vendors and their affiliates who meet the conditions of section 144.635, RSMo, but refuse to collect the use tax levied pursuant to chapter 144, RSMo, on their sales delivered to this state;

(9) The disclosure to the public of any information, or facts shown thereby regarding the claiming of a state tax credit by a member of the Missouri general assembly or any state-wide elected public official.

3. Any person violating any provision of subsection 1 or 2 of this section shall, upon conviction, be guilty of a class D felony.

4. The state auditor or the auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report or return filed with the department of revenue if such inspection is related to and for the purpose of auditing the department of revenue; except that, the state auditor or the auditor's duly authorized employees shall have no greater right of access to, use and publication of information, audit and related activities with respect to income tax information obtained by the department of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to the laws of the United States and of the income tax laws of the state of Missouri.

32.105. DEFINITIONS. — As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Size of Household	Percent of State or Geographic Area Family Median Income
One Person	35%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means

a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed [four] ~~six~~ million dollars from within any one fiscal year's allocation[, except that for fiscal years 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six million dollars]. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

(12) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

(13) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

67.1501. FUNDING OF DISTRICT. — 1. A district may use any one or more of the assessments, taxes, or other funding methods specifically authorized pursuant to sections 67.1401

to 67.1571 to provide funds to accomplish any power, duty or purpose of the district[]; provided, however, no district which is located in any city not within a county and which includes any real property that is also included in a special business district established pursuant to sections 71.790 to 71.808, RSMo, prior to the establishment of the district pursuant to sections 67.1401 to 67.1571 shall have the authority to impose any such tax or assessment pursuant to sections 67.1401 to 67.1571 until such time as all taxes or special assessments imposed pursuant to sections 71.790 to 71.808, RSMo, on any real property or on any business located in such special business district or on any business or individual doing business in such special business district have been repealed in accordance with this subsection. The governing body of a special business district which includes real property located in a district established pursuant to sections 67.1401 to 67.1571 shall have the power to repeal all taxes and assessments imposed pursuant to sections 71.790 to 71.808, RSMo, and such power may be exercised by the adoption of a resolution by the governing body of such special business district. Upon the adoption of such resolution such special business district shall no longer have the power to impose any tax or special assessment pursuant to sections 71.790 to 71.808, RSMo, until such time as the district or districts established pursuant to sections 67.1401 to 67.1571 which include any real property that is also included in such special business district have been terminated or have expired pursuant to sections 67.1401 to 67.1571].

2. A district may establish different classes of real property within the district for purposes of special assessments. The levy rate for special assessments may vary for each class or subclass based on the level of benefit derived from services or improvements funded, provided or caused to be provided by the district.

3. Notwithstanding anything in sections 67.1401 to 67.1571 to the contrary, any district which is not a political subdivision shall have no power to levy any tax but shall have the power to levy special assessments in accordance with section 67.1521.

67.1545. SALES AND USE TAX AUTHORIZED IN CERTAIN DISTRICTS — PROCEDURE TO ADOPT, BALLOT LANGUAGE, IMPOSITION AND COLLECTION BY RETAILERS — PENALTIES FOR VIOLATIONS — DEPOSIT INTO TRUST FUND, USE — REPEAL PROCEDURE. — 1. Any district formed as a political subdivision may impose by resolution a district sales and use tax on all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors and sales to **or by public utilities and providers of communications, cable, or video services.** Any sales and use tax imposed pursuant to this section may be imposed in increments of one-eighth of one percent, up to a maximum of one percent. Such district sales and use tax may be imposed for any district purpose designated by the district in its ballot of submission to its qualified voters; except that, no resolution adopted pursuant to this section shall become effective unless the board of directors of the district submits to the qualified voters of the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters are opposed to the sales tax, then the resolution is void.

2. The ballot shall be substantially in the following form:

Shall the (insert name of district) Community Improvement District impose a community improvement districtwide sales and use tax at the maximum rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for (insert general description of the purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. Within ten days after the qualified voters have approved the imposition of the sales and use tax, the district shall, in accordance with section 32.087, RSMo, notify the director of the department of revenue. The sales and use tax authorized by this section shall become effective on the first day of the second calendar quarter after the director of the department of revenue receives notice of the adoption of such tax.

4. The director of the department of revenue shall collect any tax adopted pursuant to this section pursuant to section 32.087, RSMo.

5. In each district in which a sales and use tax is imposed pursuant to this section, every retailer shall add such additional tax imposed by the district to such retailer's sale price, and when so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

6. In order to allow retailers to collect and report the sales and use tax authorized by this section as well as all other sales and use taxes required by law in the simplest and most efficient manner possible, a district may establish appropriate brackets to be used in the district imposing a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to violations of this section.

8. All revenue received by the district from a sales and use tax imposed pursuant to this section which is designated for a specific purpose shall be deposited into a special trust fund and expended solely for such purpose. Upon the expiration of any sales and use tax adopted pursuant to this section, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the resolution adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors pursuant to applicable laws relating to the investment of other district funds.

9. A district may repeal by resolution any sales and use tax imposed pursuant to this section before the expiration date of such sales and use tax unless the repeal of such sales and use tax will impair the district's ability to repay any liabilities the district has incurred, moneys the district has borrowed or obligation the district has issued to finance any improvements or services rendered for the district.

10. Notwithstanding the provisions of chapter 115, RSMo, an election for a district sales and use tax under this section shall be conducted in accordance with the provisions of this section.

99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED.— 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the

manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 or 3 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such

member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) [Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first

classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9)] At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments. **Members appointed by the county executive or presiding commissioner prior to August 28, 2008, shall continue their service on the commission established in subsection 3 of this section without further appointment unless the county executive or presiding commissioner appoints a new member or members.**

3. [The commission] **Beginning August 28, 2008:**

(1) In lieu of a commission created under subsection 2 of this section, any city, town, or village in a county with a charter form of government and with more than one million inhabitants, in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, or in a county of the first classification with more than one hundred eighty-five thousand but fewer than two hundred thousand inhabitants shall, prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, create a commission consisting of twelve persons to be appointed as follows:

(a) Six members appointed either by the county executive or presiding commissioner; notwithstanding any provision of law to the contrary, no approval by the county's governing body shall be required;

(b) Three members appointed by the cities, towns, or villages in the county which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;

(c) Two members appointed by the school boards whose districts are included in the county in a manner in which the school boards agree; and

(d) One member to represent all other districts levying ad valorem taxes in the proposed redevelopment area in a manner in which all such districts agree.

No city, town, or village subject to this subsection shall create or maintain a commission under subsection 2 of this section, except as necessary to complete a public hearing for which notice under section 99.830 has been provided prior to August 28, 2008, and to vote or make recommendations relating to redevelopment plans, redevelopment projects, or designation of redevelopment areas, or amendments thereto that were the subject of such public hearing;

(2) Members appointed to the commission created under this subsection, except those six members appointed by either the county executive or presiding commissioner, shall serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan, or designation of a redevelopment area is considered for approval by the commission. The six members appointed by either the county executive or the presiding commissioner shall serve on all such commissions until replaced. The city, town, or village that creates a commission under this subsection shall send notice thereof by certified mail to the county executive or presiding commissioner, to the school districts whose boundaries include any portion of the proposed redevelopment area, and to the other taxing districts whose boundaries include any portion of the proposed redevelopment area. The city, town, or village that creates the commission shall also be solely responsible for notifying all other cities, towns, and villages in the county that have tax increment financing districts and shall exercise all administrative functions of the commission. The school districts receiving notice from the city, town, or village shall be solely responsible for notifying the other school districts within the county of the formation of the commission. If the county, school board, or other taxing district fails to appoint members to the commission within thirty days after the city, town, or village sends the written notice, as provided herein, that it has convened such a commission or within thirty days of the expiration of any such member's term, the remaining duly appointed members of the commission may exercise the full powers of the commission.

4. (1) Any commission created under this section, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. [The]

(2) Any commission created under subsection 2 of this section shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

(3) Any commission created under subsection 3 of this section shall, within fifteen days of the receipt of a redevelopment plan meeting the minimum requirements of section 99.810, as determined by counsel to the city, town, or village creating the commission and a request by the applicable city, town, or village for a public hearing, fix a time and place for the public hearing referred to in section 99.825. The public hearing shall be held no later than seventy-five days from the commission's receipt of such redevelopment plan and request for public hearing. The commission shall vote and make recommendations to the governing body of the city, town, or village requesting the public hearing on all proposed redevelopment plans, redevelopment projects, and designations of redevelopment areas, and amendments thereto within thirty days following the completion of the public hearing. If the commission fails to vote within thirty days following the completion of the public hearing referred to in section 99.825 concerning the proposed redevelopment plan, redevelopment project, or designation of redevelopment area, or amendments thereto,

such plan, project, designation, or amendment thereto shall be deemed rejected by the commission.

99.825. ADOPTION OF ORDINANCE FOR REDEVELOPMENT, PUBLIC HEARING REQUIRED — OBJECTION PROCEDURE — HEARING AND NOTICES NOT REQUIRED, WHEN — RESTRICTIONS ON CERTAIN PROJECTS. — 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing **as required in subsection 4 of section 99.820** and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing; **provided, if the commission is created under subsection 3 of section 99.820, the hearing shall not be continued for more than thirty days beyond the date on which it is originally opened unless such longer period is requested by the chief elected official of the municipality creating the commission and approved by a majority of the commission.** Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.

[99.825. ADOPTION OF ORDINANCE FOR REDEVELOPMENT, PUBLIC HEARING REQUIRED — OBJECTION PROCEDURE — HEARING AND NOTICES NOT REQUIRED, WHEN — RESTRICTIONS ON CERTAIN PROJECTS. — 1. Prior to the adoption of an ordinance proposing

the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.]

105.485. FINANCIAL INTEREST STATEMENTS — FORM — CONTENTS — POLITICAL SUBDIVISIONS, COMPLIANCE. — 1. Each financial interest statement required by sections 105.483 to 105.492 shall be on a form prescribed by the commission and shall be signed and verified by a written declaration that it is made under penalties of perjury; provided, however, the form shall not seek information which is not specifically required by sections 105.483 to 105.492.

2. Each person required to file a financial interest statement pursuant to subdivisions (1) to (12) of section 105.483 shall file the following information for himself, his spouse and dependent children at any time during the period covered by the statement, whether singularly or collectively; provided, however, that said person, if he does not know and his spouse will not divulge any information required to be reported by this section concerning the financial interest of his spouse, shall state on his financial interest statement that he has disclosed that information known to him and that his spouse has refused or failed to provide other information upon his bona fide request, and such statement shall be deemed to satisfy the requirements of this section for such financial interest of his spouse; and provided further if the spouse of any person required to file a financial interest statement is also required by section 105.483 to file a financial interest statement, the financial interest statement filed by each need not disclose the financial interest of the other, provided that each financial interest statement shall state that the spouse of the person has filed a separate financial interest statement and the name under which the statement was filed:

(1) The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;

(2) The name and address of each sole proprietorship which he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partners' units; and the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

(3) The name and address of any other source not reported pursuant to subdivisions (1) and (2) and subdivisions (4) to (9) of this subsection from which such person received one thousand dollars or more of income during the year covered by the statement, including, but not limited to, any income otherwise required to be reported on any tax return such person is required by law to file; except that only the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system need be reported pursuant to this subdivision;

(4) The location by county, the subclassification for property tax assessment purposes, the approximate size and a description of the major improvements and use for each parcel of real property in the state, other than the individual's personal residence, having a fair market value of ten thousand dollars or more in which such person held a vested interest including a leasehold for a term of ten years or longer, and, if the property was transferred during the year covered by the statement, the name and address of the persons furnishing or receiving consideration for such transfer;

(5) The name and address of each entity in which such person owned stock, bonds or other equity interest with a value in excess of ten thousand dollars; except that, if the entity is a corporation listed on a regulated stock exchange, only the name of the corporation need be listed; and provided that any member of any board or commission of the state or any political subdivision who does not receive any compensation for his services to the state or political subdivision other than reimbursement for his actual expenses or a per diem allowance as prescribed by law for each day of such service need not report interests in publicly traded corporations or limited partnerships which are listed on a regulated stock exchange or automated quotation system pursuant to this subdivision; and provided further that the provisions of this subdivision shall not require reporting of any interest in any qualified plan or annuity pursuant to the Employees' Retirement Income Security Act;

(6) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver;

(7) The name and address of each not-for-profit corporation and each association, organization, or union, whether incorporated or not, except not-for-profit corporations formed to provide church services, fraternal organizations or service clubs from which the officer or employee draws no remuneration, in which such person was an officer, director, employee or trustee at any time during the year covered by the statement, and for each such organization, a general description of the nature and purpose of the organization;

(8) The name and address of each source from which such person received a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in value per source during the year covered by the statement other than gifts from persons within the third degree of consanguinity or affinity of the person filing the financial interest statement. For the purposes of this section, a "gift" shall not be construed to mean political contributions otherwise required to be reported by law or hospitality such as food, beverages or admissions to social, art, or sporting events or the like, or informational material. For the purposes of this section, a "gift" shall include gifts to

or by creditors of the individual for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the individual to that creditor;

(9) The lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of office of such official, except that such statement shall not include travel or lodging expenses:

(a) Paid in the ordinary course of business for businesses described in subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

(b) For which the official may be reimbursed as provided by law; or

(c) Paid by persons related by the third degree of consanguinity or affinity to the person filing the statement; or

(d) Expenses which are reported by the campaign committee or candidate committee of the person filing the statement pursuant to the provisions of chapter 130, RSMo; or

(e) Paid for purely personal purposes which are not related to the person's official duties by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of a member, of any association or entity which employs a lobbyist. The statement shall include the name and address of such person who paid the expenses, the date such expenses were incurred, the amount incurred, the location of the travel and lodging, and the nature of the services rendered or reason for the expenses;

(10) The assets in any revocable trust of which the individual is the settlor if such assets would otherwise be required to be reported under this section;

(11) The name, position and relationship of any relative within the first degree of consanguinity or affinity to any other person who:

(a) Is employed by the state of Missouri, by a political subdivision of the state or special district, as defined in section 115.013, RSMo, of the state of Missouri;

(b) Is a lobbyist; or

(c) Is a fee agent of the department of revenue;

(12) The name and address of each campaign committee, political committee, candidate committee, or continuing committee for which such person or any corporation listed on such person's financial interest statement received payment; **and**

(13) For members of the general assembly or any state-wide elected public official, their spouses, and their dependent children, whether any state tax credits were claimed on the member's, spouse's, or dependent child's most recent state income tax return.

3. For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this section, an individual shall be deemed to have received a salary from his employer or income from any source at the time when he shall receive a negotiable instrument whether or not payable at a later date and at the time when under the practice of his employer or the terms of an agreement, he has earned or is entitled to anything of actual value whether or not delivery of the value is deferred or right to it has vested. The term "income" as used in this section shall have the same meaning as provided in the Internal Revenue Code of 1986, and amendments thereto, as the same may be or becomes effective, at any time or from time to time for the taxable year, provided that income shall not be considered received or earned for purposes of this section from a partnership or sole proprietorship until such income is converted from business to personal use.

4. Each official, officer or employee or candidate of any political subdivision described in subdivision (11) of section 105.483 shall be required to file a financial interest statement as required by subsection 2 of this section, unless the political subdivision biennially adopts an ordinance, order or resolution at an open meeting by September fifteenth of the preceding year, which establishes and makes public its own method of disclosing potential conflicts of interest and substantial interests and therefore excludes the political subdivision or district and its officers and employees from the requirements of subsection 2 of this section. A certified copy of the ordinance, order or resolution shall be sent to the commission within ten days of its adoption. The commission shall assist any political subdivision in developing forms to complete the

requirements of this subsection. The ordinance, order or resolution shall contain, at a minimum, the following requirements with respect to disclosure of substantial interests:

(1) Disclosure in writing of the following described transactions, if any such transactions were engaged in during the calendar year:

(a) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision;

(b) The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision;

(2) The chief administrative officer and chief purchasing officer of such political subdivision shall disclose in writing the information described in subdivisions (1), (2) and (6) of subsection 2 of this section;

(3) Disclosure of such other financial interests applicable to officials, officers and employees of the political subdivision, as may be required by the ordinance or resolution;

(4) Duplicate disclosure reports made pursuant to this subsection shall be filed with the commission and the governing body of the political subdivision. The clerk of such governing body shall maintain such disclosure reports available for public inspection and copying during normal business hours.

105.1270. NO CONFLICT OF INTEREST FOR STATE — AUTHORIZED TAX CREDITS, ABATEMENTS, EXEMPTIONS, OR LOANS, WHEN. — 1. Notwithstanding any provision to the contrary, a corporation, partnership, firm, trust, association, or other entity shall not be disqualified from receiving any state authorized tax credit, abatement, exemption, or loan on the basis that there exists a conflict of interest due to a relationship of any degree or affinity to any statewide elected official or member of the general assembly, when the person of relation holds less than a two percent equity interest in the entity standing to benefit from the credit, abatement, exemption, or loan.

135.305. ELIGIBILITY — AMOUNT OF TAX CREDIT. — A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as a production incentive to produce processed wood products in a qualified wood producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed material. The credit may be claimed for a period of five years and is to be a tax credit against the tax otherwise due. **No new tax credits, provided for under sections 135.300 to 135.311, shall be authorized after June 30, 2013.**

135.682. LETTER RULINGS TO BE ISSUED, PROCEDURE — LETTER RULINGS CLOSED RECORDS. — 1. The director of the department of economic development or the director's designee shall issue letter rulings regarding the tax credit program authorized under section 135.680, subject to the terms and conditions set forth in this section. The director of the department of economic development may impose additional terms and conditions consistent with this section to requests for letter rulings by regulation promulgated under chapter 536, RSMo. For the purposes of this section, the term "letter ruling" means a written interpretation of law to a specific set of facts provided by the applicant requesting a letter ruling.

2. The director or director's designee shall respond to a request for a letter ruling within sixty days of receipt of such request. The applicant may provide a draft letter ruling for the department's consideration. The applicant may withdraw the request for a letter ruling, in writing, prior to the issuance of the letter ruling. The director or the director's designee may refuse to issue a letter ruling for good cause, but must list the specific reasons for refusing to issue the letter ruling. Good cause includes, but is not limited to:

- (1) The applicant requests the director to determine whether a statute is constitutional or a regulation is lawful;
- (2) The request involves a hypothetical situation or alternative plans;
- (3) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling; and
- (4) The issue is currently being considered in a rulemaking procedure, contested case, or other agency or judicial proceeding that may definitely resolve the issue.

3. Letter rulings shall bind the director and the director's agents and their successors until such time as the taxpayer or its shareholders, members, or partners, as applicable, claim all of such tax credits on a Missouri tax return, subject to the terms and conditions set forth in properly published regulations. The letter ruling shall apply only to the applicant.

4. Letter rulings issued under the authority of this section shall not be a rule as defined in section 536.010, RSMo, in that it is an interpretation issued by the department with respect to a specific set of facts and intended to apply only to that specific set of facts, and therefore shall not be subject to the rulemaking requirements of chapter 536, RSMo.

5. Information in letter ruling requests as described in section 620.014, RSMo, shall be closed to the public. Copies of letter rulings shall be available to the public provided that the applicant identifying information and otherwise protected information is redacted from the letter ruling as provided in subsection 1 of section 610.024, RSMo.

135.800. CITATION—DEFINITIONS. — 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited as the "Tax Credit Accountability Act of 2004".

2. As used in sections 135.800 to 135.830, the following terms mean:

(1) "Administering agency", the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) "Agricultural tax credits", the agricultural product utilization contributor tax credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit created pursuant to section 348.432, RSMo, and the wine and grape production tax credit created pursuant to section 135.700;

(3) "All tax credit programs", the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit created pursuant to section 135.535, and the film production tax credit created pursuant to section 135.750;

(5) "Community development tax credits", the neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant

to section 320.093, RSMo, and the transportation development tax credit created pursuant to section 135.545;

(6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

(7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311[, and the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section 260.285, RSMo];

(9) "Housing tax credits", the neighborhood preservation tax credit created pursuant to sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(10) "Recipient", the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805;

(11) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section 135.490;

(12) "Training and educational tax credits", the community college new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo[, the skills development account tax credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit created pursuant to section 620.1560, RSMo, and the sponsorship and mentoring tax credit created pursuant to section 135.348].

135.803. INELIGIBILITY BASED ON CONFLICT OF INTERESTS WHEN. — A taxpayer shall not be deemed ineligible for any state tax credit program in effect or hereinafter established on the basis that there exists a conflict of interest due to a relationship of any degree or affinity to any statewide elected official or member of the general assembly, when the person of relation holds less than a two percent equity interest in the taxpayer.

135.805. CERTAIN INFORMATION TO BE SUBMITTED ANNUALLY, WHO, TIME PERIOD — DUE DATE OF REPORTING REQUIREMENTS — REQUIREMENTS TO APPLY TO CERTAIN RECIPIENTS, WHEN — APPLICANT IN COMPLIANCE, WHEN, WRITTEN NOTIFICATION, WHEN, RECORDS AVAILABLE FOR REVIEW — EFFECTIVE DATE — NAMES OF RECIPIENTS TO BE MADE PUBLIC. — 1. A recipient of a community development tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency

information confirming the title and location of the corresponding project, the estimated or actual time period for completion of the project, and all geographic areas impacted by the project.

2. A recipient of a redevelopment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected or actual project cost, labor cost, and date of completion.

3. A recipient of a business recruitment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated or actual project cost.

4. A recipient of a training and educational tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated or actual project cost, and the number of employees and number of students served as of such annual update.

5. A recipient of a housing tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section 135.802, and the projected or actual labor cost and completion date of the project.

6. A recipient of an entrepreneurial tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

7. A recipient of an agricultural tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity then the new generation processing entity, and not the recipient, shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

8. A recipient of an environmental tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

9. The reporting requirements established in this section shall be due annually on June thirtieth of each year. No person or entity shall be required to make an annual report until at least one year after the credit issuance date.

10. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

11. Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections 135.802 to 135.810. The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office for review by the department of economic development.

12. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

13. Notwithstanding provisions of law to the contrary, every agency of this state charged with administering a tax credit program authorized under the laws of this state shall make available for public inspection the name of each tax credit recipient and the amount of tax credits issued to each such recipient.

135.815. VERIFICATION OF APPLICANT'S TAX PAYMENT STATUS, WHEN, EFFECT OF DELINQUENCY — EMPLOYMENT OF UNAUTHORIZED ALIENS, EFFECT OF. — 1. Prior to authorization of any tax credit application, an administering agency shall verify through the department of revenue that the tax credit applicant does not owe any delinquent income, sales, or use taxes, or interest or penalties on such taxes, and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance concludes that a taxpayer is delinquent after June fifteenth but before July first of any year, and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits towards a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

2. Any applicant of a tax credit program contained in the definition of the term "all tax credit programs" who purposely and directly employs unauthorized aliens shall forfeit any tax credits issued to such applicant which have not been redeemed, and shall repay the amount of any tax credits redeemed by such applicant during the period of time such unauthorized alien was employed by the applicant. As used in this subsection, the term "unauthorized alien" shall mean an alien who does not have the legal right or authorization under federal law to work in the United States, as defined under Section 8 U.S.C. 1324a(h)(3).

135.967. TAX CREDIT ALLOWED, DURATION — PROHIBITION ON RECEIVING OTHER TAX CREDITS — LIMITATIONS ON ISSUANCE OF TAX CREDITS — CAP — ELIGIBILITY OF CERTAIN EXPANSIONS — EMPLOYEE CALCULATIONS — COMPUTATION OF CREDIT — FLOW-THROUGH TAX TREATMENTS — CREDITS MAY BE CLAIMED, WHEN — CERTIFICATES — REFUNDS — VERIFICATION PROCEDURES. — 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to [135.268] 135.286, or section 135.535, and may not simultaneously receive tax credits under sections 620.1875 to 620.1890, RSMo, at the same facility.

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than [fourteen] **twenty-four** million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (14) of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (14) of section 135.950, or subdivision (22) of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee who is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section

shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (14) of section 135.950 or subdivision (22) of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision (14) of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

14. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property

taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. **The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5 of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year.** The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

- (1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and
- (2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this [paragraph] **subdivision**, the word "comparable" means that:
 - (a) Such sale was closed at a date relevant to the property valuation; and
 - (b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size

of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percentages of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured

home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the

provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

144.057. ALL TANGIBLE PERSONAL PROPERTY ON U.S. MUNITIONS LIST, EXEMPT FROM STATE AND LOCAL SALES AND USE TAX. — In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.

348.436. EXPIRATION DATE. — The provisions of sections 348.430 to 348.436 shall expire December 31, [2010] **2016**.

353.150. BORROWING OF MONEY AND GIVING OF SECURITY BY CORPORATION. — 1. Any urban redevelopment corporation may borrow funds and secure the repayment thereof by mortgage which shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

2. Certificates, bonds and notes, or part interest therein, or any part of an issue thereof, which are secured by a first mortgage on the real property in a development area, or any part thereof, shall be securities in which all the following persons, partnerships, or corporations and public bodies or public officers may legally invest the funds within their control:

(1) Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity;

(2) Persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations and trust companies);

(3) The state director of finance as conservator, liquidator or rehabilitator of any such person, partnership or corporation;

(4) Persons, partnerships or corporations organized under or subject to the provisions of the insurance law; fraternal benefit societies; and

(5) The state director of the department of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

3. Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

4. Any urban redevelopment corporation may sell or otherwise dispose of any or all of the real property acquired by it for the purposes of a redevelopment project. In the event of the sale or other disposition of real property of any urban redevelopment corporation by reason of the foreclosure of any mortgage or other lien, through insolvency or bankruptcy proceedings, by order of any court of competent jurisdiction, by voluntary transfer or otherwise, and the purchaser

of such real property of such redevelopment corporation shall continue to use, operate and maintain such real property in accordance with the provisions of any development plan, the legislative authority of any city affected by the provisions of this chapter, may grant the partial tax relief provided in section 353.110; but if such real property shall be used for a purpose different than that described in the redevelopment plan, or in the event that the purchaser does not desire the property to continue under the redevelopment plan, or if the legislative authority shall refuse to grant the purchaser continuing tax relief, the real property shall be assessed for ad valorem taxes upon the full true value of the real property and may be owned and operated free from any of the conditions, restrictions or provisions of this chapter. **Nothing in this chapter, any development plan, or any contract shall impose a limitation on earnings as a condition to the granting of partial tax relief provided in section 353.110 to a purchaser described in this subsection that is not an urban redevelopment corporation or life insurance company operating as an urban redevelopment corporation.**

5. Any limitation on earnings imposed on any purchaser that is not an urban redevelopment corporation or life insurance company operating as an urban redevelopment corporation under any existing or future redevelopment plan or any existing or future contract shall be void.

447.708. TAX CREDITS, CRITERIA, CONDITIONS — DEFINITIONS. — 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is "a person difficult to employ" as defined by section 135.240, RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4) of subsection 1 of section 135.225, RSMo;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during

which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo, which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section, shall not affect requirements for the prospective purchaser to obtain the approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. (1) The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo. **The tax credit may also include up to one hundred percent of the costs of demolition that are not directly part of the remediation activities, provided that the demolition is on the property where the voluntary remediation activities are occurring, the demolition is necessary to accomplish the planned use of the facility where the remediation activities are occurring, and the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development. The demolition may occur on an adjacent property if the project is located in a municipality which has a population less than twenty thousand and the above conditions are otherwise met. The adjacent property shall independently qualify as abandoned or underutilized. The amount of the credit available for demolition not associated with remediation can not exceed the total amount of credits approved for remediation including demolition required for remediation.**

(2) [The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits otherwise allowed in this section, grant a demolition tax credit to the applicant for up to one hundred percent of the costs of demolition that are not part of the voluntary remediation activities, provided that the demolition is either on the property where the voluntary remediation activities are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development.

(3) The amount of remediation [and demolition] tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

[(4)] (3) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding

withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation [and demolition] tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

[(5)] (4) The project facility shall be projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development, to be eligible for tax credits pursuant to this section.

[(6)] (5) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility.

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

- (1) That portion of the taxpayer's income attributed to the eligible project; or
 - (2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of
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the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership.

The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

620.050. COUNCIL CREATED, MEMBERS, APPOINTMENT — REGISTRATION FEE — FUND ESTABLISHED, USE OF MONEYS — COUNCIL DUTIES — RULEMAKING AUTHORITY. — 1. There is hereby created, within the department of economic development, the "Entrepreneurial Development Council". The entrepreneurial development council shall consist of seven members from businesses located within the state and licensed attorneys with specialization in intellectual property matters. All members of the council shall be appointed by the governor with the advice and consent of the senate. The terms of

membership shall be set by the department of economic development by rule as deemed necessary and reasonable. Once the department of economic development has set the terms of membership, such terms shall not be modified and shall apply to all subsequent members.

2. The entrepreneurial development council shall, as provided by department rule, impose a registration fee sufficient to cover costs of the program for entrepreneurs of this state who desire to avail themselves of benefits, provided by the council, to registered entrepreneurs.

3. There is hereby established in the state treasury, the "Entrepreneurial Development and Intellectual Property Right Protection Fund" to be held separate and apart from all other public moneys and funds of the state. The entrepreneurial development and intellectual property right protection fund may accept state and federal appropriations, grants, bequests, gifts, fees and awards to be held for use by the entrepreneurial development council. Notwithstanding provisions of section 33.080, RSMo, to the contrary, moneys remaining in the fund at the end of any biennium shall not revert to general revenue.

4. Upon notification of an alleged infringement of intellectual property rights of a entrepreneur, the entrepreneurial development council shall evaluate such allegations of infringement and may, based upon need, award grants or financial assistance to subsidize legal expenses incurred in instituting legal action necessary to remedy the alleged infringement. Pursuant to rules promulgated by the department, the entrepreneurial development council may allocate moneys from entrepreneurial development and intellectual property right protection fund, in the form of low interest loans and grants, to registered entrepreneurs for the purpose of providing financial aid for product development, manufacturing, and advertising of new products.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

620.1878. DEFINITIONS. — For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

- (1) "Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;
- (2) "Average wage", the new payroll divided by the number of new jobs;
- (3) "Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the approval;
- (4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;
- (5) "Department", the Missouri department of economic development;

- (6) "Director", the director of the department of economic development;
- (7) "Employee", a person employed by a qualified company;
- (8) "Full-time employee", an employee of the qualified company that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;
- (9) "High-impact project", a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;
- (10) "Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision;
- (11) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;
- (12) "New direct local revenue", the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision;
- (13) "New investment", the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs;
- (14) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;
- (15) "New payroll", the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll;
- (16) "Notice of intent", a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company's intent to hire new jobs and request benefits under this program;
- (17) "Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;
- (18) "Program", the Missouri quality jobs program provided in sections 620.1875 to 620.1890;
- (19) "Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within one mile of each other **or within the same county** such that their purpose and operations are interrelated;
- (20) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month

period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the notice of intent;

(21) "Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;

(22) "Project period", the time period that the benefits are provided to a qualified company;

(23) "Qualified company", a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

- (a) Gambling establishments (NAICS industry group 7132);
- (b) Retail trade establishments (NAICS sectors 44 and 45);
- (c) Food and drinking places (NAICS subsector 722);
- (d) Public utilities (NAICS 221 including water and sewer services);
- (e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state;
- (f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection;
- (g) Educational services (NAICS sector 61);
- (h) Religious organizations (NAICS industry group 8131); [or]
- (i) Public administration (NAICS sector 92);
- (j) Ethanol distillation or production; or**
- (k) Biodiesel production.**

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

(24) **"Qualified renewable energy sources" shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:**

- (a) Open-looped biomass;**
- (b) Close-looped biomass;**
- (c) Solar;**
- (d) Wind;**
- (e) Geothermal; and**
- (f) Hydropower;**

(25) "Related company" means:

- (a) A corporation, partnership, trust, or association controlled by the qualified company;
- (b) An individual, corporation, partnership, trust, or association in control of the qualified company; or
- (c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, control of a corporation shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, control of a partnership or association shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, control of a trust shall mean

ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(25)] (26) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;

[(26)] (27) "Related facility base employment", the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;

[(27)] (28) "Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;

[(28)] (29) "Rural area", a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census;

[(29)] (30) "Small and expanding business project", a qualified company that within two years of the date of the approval creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility;

[(30)] (31) "Tax credits", tax credits issued by the department to offset the state income taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided for in this program;

[(31)] (32) "Technology business project", a qualified company that within two years of the date of the approval creates a minimum of ten new jobs involved in the operations of a [technology] company:

(a) **Which is a technology company**, as determined by a regulation promulgated by the department under the provisions of section 620.1884 or classified by NAICS codes;

(b) **Which owns or leases a facility which produces electricity derived from qualified renewable energy sources, or produces fuel for the generation of electricity from qualified renewable energy sources, but does not include any company that has received the alcohol mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax year; or**

(c) Which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices;

[(32)] (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo. For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.

620.1881. PROJECT NOTICE OF INTENT, DEPARTMENT TO RESPOND WITH A PROPOSAL OR A REJECTION — BENEFITS AVAILABLE — EFFECT ON WITHHOLDING TAX — PROJECTS ELIGIBLE FOR BENEFITS — ANNUAL REPORT — CAP ON TAX CREDITS — ALLOCATION OF TAX CREDITS. — 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government. Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed an approval for the purposes of this section. A

qualified company who is provided an approval for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original approval for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new approval.

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not simultaneously receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this subdivision. The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

3. The types of projects and the amount of benefits to be provided are:

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax as calculated under subdivision (32) of section 620.1878 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds the county average wage or for a period of five years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred twenty percent of the county average wage;

(2) Technology business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the

program, a qualified company may retain an amount equal to a maximum of five percent of new payroll for a period of five years from the date the required number of jobs were created from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average wage of the new payroll equals or exceeds the county average wage. An additional one-half percent of new payroll may be added to the five percent maximum if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located, plus an additional one-half percent of new payroll may be added if the average wage of the new payroll in any year exceeds one hundred forty percent of the average wage in the county in which the project facility is located. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is five hundred thousand dollars;

(3) High impact projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage of the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a project or combination of projects may be increased up to one million dollars if the number of new jobs will exceed five hundred and if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the project;

(4) Job retention projects: a qualified company may receive a tax credit for the retention of jobs in this state, provided the qualified company and the project meets all of the following conditions:

(a) For each of the twenty-four months preceding the year in which application for the program is made the qualified company must have maintained at least one thousand full-time employees at the employer's site in the state at which the jobs are based, and the average wage of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, [2007] **2013**;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by floodwater rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time.

The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in an annual report is below the minimum for high impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

5. The maximum calendar year annual tax credits issued for the entire program shall not exceed [forty] **sixty** million dollars. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program.

6. The department shall allocate the annual tax credits based on the date of the approval, reserving such tax credits based on the department's best estimate of new jobs and new payroll of the project, and the other factors in the determination of benefits of this program. However, the annual issuance of tax credits is subject to the annual verification of the actual new payroll.

The allocation of tax credits for the period assigned to a project shall expire if, within two years from the date of commencement of operations, or approval if applicable, the minimum thresholds have not been achieved. The qualified company may retain authorized amounts from the withholding tax under this section once the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the minimum new jobs thresholds. In the event the qualified company does not meet the minimum new job threshold, the qualified company may submit a new notice of intent or the department may provide a new approval for a new project of the qualified company at the project facility or other facilities.

7. For a qualified company with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed within one year of the close of the taxable year for which they were issued, except as provided under subdivision (4) of subsection 3 of this section.

9. Tax credits authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department.

10. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that at issuance credits shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

11. Except as provided under subdivision (4) of subsection 3 of this section, the director of revenue shall issue a refund to the qualified company to the extent that the amount of credits allowed in this section exceeds the amount of the qualified company's income tax.

12. An employee of a qualified company will receive full credit for the amount of tax withheld as provided in section 143.211, RSMo.

13. If any provision of sections 620.1875 to 620.1890 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared severable.

[135.348. TAX CREDIT FOR SPONSORSHIP AND MENTORING PROGRAM. — 1. As used in this section, the following terms mean:

(1) "Approved program", a sponsorship and mentoring program established pursuant to this section and approved by the department of elementary and secondary education;

(2) "Eligible student", a resident pupil of a school district who is determined by the local school board to be eligible to participate in a sponsorship and mentoring program pursuant to this section and who participates in such program for no less than eight calendar months in the tax year for which a return is filed claiming a credit authorized in this section;

(3) "Net expenditures", only those amounts paid or incurred for the participation of an eligible student participating in an approved sponsorship and mentoring program less any amounts received by the qualified taxpayer from any source for the provision of a sponsorship and mentoring program for an eligible student;

(4) "Qualified taxpayer", an employer who makes expenditures pursuant to this section.

2. For taxable years commencing on or after January 1, 1998, a qualified taxpayer shall be allowed a credit against the tax imposed by chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, to the extent of the lesser of two thousand dollars times the number of eligible students for which the qualified taxpayer is allowed a credit pursuant to this section or the net expenditures made directly or through a fund during a taxable year by the qualified taxpayer for the participation of an eligible student in an approved sponsorship and mentoring program established pursuant to this section. No credit shall be allowed for any amounts for which any other credit is claimed or allowed under any other provision of state law for the same net expenditures.

3. The tax credit allowed by this section shall be claimed by the qualified taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143, RSMo, after all other credits provided by law have been applied. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability shall not be refundable but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. The department of elementary and secondary education shall establish, by rule, guidelines and criteria for approval of sponsorship and mentoring programs established by school districts and for determining the eligibility of students for participation in sponsorship and mentoring programs established pursuant to this section. Such determinations for eligibility of students shall be based upon a definition of an at-risk student as established by the department by rule.

5. A local school board may establish a sponsorship and mentoring program and apply to the department of elementary and secondary education for approval of such program. A tax credit may only be received pursuant to this section for expenditures for sponsorship and mentoring programs approved by the department. The school board of each district which has an approved program shall annually certify to the department of elementary and secondary education the number of eligible students participating in the program. The principal of any school in a district which has an approved program may recommend, to the local school board, those students who do not meet the definition of "at-risk" students established pursuant to this section, and the school board may submit the names of such students and the circumstances which justify the student's participation in an approved program to the department of elementary and secondary education for approval of such student's participation. If approved by the department, such students shall be considered eligible students for participation in an approved program.

6. The department of elementary and secondary education shall provide written notification to the department of revenue of each eligible student participating in an approved program pursuant to this section, the student's school district, the name of the qualified taxpayer approved to receive a tax credit on the basis of such eligible student's participation in an approved program pursuant to this section and the amount of such credit as determined in subsection 2 of this section. This section is subject to appropriations.]

[260.285. MANUFACTURER RECYCLING FLEXIBLE CELLULOSE CASING ELIGIBLE FOR TAX CREDIT — CLAIM PROCEDURE — FRAUDULENT CLAIM, PENALTY. — 1. Any

manufacturer engaged in this state in production of a meat or poultry food product intended for human consumption that is recycling flexible cellulose casing manufactured from cotton linters used and consumed directly in the production of such food product shall be eligible for a credit as defined in subsection 2 of this section. For purposes of this section, "cotton linters" means fibers from any plant or wood pulp material used for the creation of flexible cellulose casings.

2. The credit authorized in subsection 1 shall be equal to the amount of state sales or use taxes paid by a manufacturer to a retailer on such packaging material which is subsequently recycled by either the manufacturer or other person or entity to which the manufacturer conveys such packaging materials, less any consideration received by the manufacturer for such conveyance.

3. A manufacturer shall claim the refund in the month following the month in which the material has been recycled or conveyed for recycling. When claiming a credit pursuant to this section, a manufacturer shall provide a detailed accounting of the amount of packaging material recycled, amount of sales or use tax paid on such material, an affidavit attesting that the manufacturer is eligible pursuant to the provisions of this section for the credit being claimed, documentation that the activity constitutes recycling as certified by the director of the department of natural resources and any other documentation determined necessary by the director of the department of revenue. The director shall refund any valid credit claims within sixty days of receipt. If the director determines that a fraudulent claim for the credit has been filed, the director may assess a penalty in an amount not to exceed twice the amount of fraudulent credits claimed.

4. Payment of credits authorized by this section shall not alter the liability of a retailer regarding sales tax on such material. Credits authorized by this section shall be paid from funds appropriated for the refund of taxes.]

Approved June 11, 2008

HB 2065 [SCS HB 2065]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Repeals the reciprocity provision for a licensed or certified psychologist in another state and allows for the destruction of the records of meritless claims against psychologists by certain persons

AN ACT to repeal sections 337.029 and 337.068, RSMo, and to enact in lieu thereof two new sections relating to the state committee of psychologists.

SECTION

A. Enacting clause.

337.029. Licenses based on reciprocity to be issued, when — health service provider certification eligibility.

337.068. Complaints of prisoners — disposition of certain records.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 337.029 and 337.068, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 337.029 and 337.068, to read as follows:

337.029. LICENSES BASED ON RECIPROCITY TO BE ISSUED, WHEN — HEALTH SERVICE PROVIDER CERTIFICATION ELIGIBILITY. — 1. A psychologist licensed in another jurisdiction who has had no violations and no suspensions and no revocation of a license to practice

psychology in any jurisdiction may receive a license in Missouri, provided the psychologist passes a written examination on Missouri laws and regulations governing the practice of psychology and meets one of the following criteria:

- (1) Is a diplomate of the American Board of Professional Psychology;
- (2) Is a member of the National Register of Health Service Providers in Psychology;
- (3) Is currently licensed or certified as a psychologist in another jurisdiction who is then a signatory to the Association of State and Provincial Psychology Board's reciprocity agreement;
- (4) Is currently licensed or certified as a psychologist in another state, territory of the United States, or the District of Columbia and:
 - (a) Has a doctoral degree in psychology from a program accredited, or provisionally accredited, by the American Psychological Association or that meets the requirements as set forth in subdivision (3) of subsection 3 of section 337.025;
 - (b) Has been licensed for the preceding five years; and
 - (c) Has had no disciplinary action taken against the license for the preceding five years; **or**
 - (5) [Is currently licensed or certified as a psychologist in a state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications; or
 - (6)] Holds a current certificate of professional qualification (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB).

2. Notwithstanding the provisions of subsection 1 of this section, applicants may be required to pass an oral examination as adopted by the committee.

3. A psychologist who receives a license for the practice of psychology in the state of Missouri on the basis of reciprocity as listed in subsection 1 of this section or by endorsement of the score from the examination of professional practice in psychology score will also be eligible for and shall receive certification from the committee as a health service provider if the psychologist meets one or more of the following criteria:

- (1) Is a diplomate of the American Board of Professional Psychology in one or more of the specialties recognized by the American Board of Professional Psychology as pertaining to health service delivery;
- (2) Is a member of the National Register of Health Service Providers in Psychology; or
- (3) Has completed or obtained through education, training, or experience the requisite knowledge comparable to that which is required pursuant to section 337.033.

337.068. COMPLAINTS OF PRISONERS — DISPOSITION OF CERTAIN RECORDS. — 1. If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections **or who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, RSMo**, and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.035 have been violated. Any case file documentation that does not result in the board filing an action pursuant to subsection 2 of section 337.035 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.035 have been violated.

2. Upon written request of the psychologist subject to a complaint, prior to August 28, 1999, by an individual incarcerated or under the care and control of the department of corrections **or prior to August 28, 2008, by an individual who has been ordered to be taken into custody, detained, or held under sections 632.480 to 632.513, RSMo**, that did not result in the board filing an action pursuant to subsection 2 of section 337.035, the board and the division of professional registration, shall in a timely fashion:

- (1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the board's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated, that the board has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their psychology professions.

Approved June 19, 2008

HB 2188 [SCS HCS HB 2188]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Creates civil and criminal penalties for individuals committing mortgage fraud and imposes sanctions upon certain licensed and unlicensed persons who commit the crime

AN ACT to repeal sections 339.100, 339.532, 443.809, 443.810, and 443.891, RSMo, and to enact in lieu thereof nine new sections relating to mortgage fraud, with penalty provisions.

SECTION

A. Enacting clause.

339.100. Investigation of certain practices, procedure — subpoenas — formal complaints — revocation or suspension of licenses — digest may be published — revocation of licenses for certain offenses.

339.175. Mortgage fraud, commission may file court action — civil penalty — investigation authority.

339.532. Refusal to issue or renew certificate or license, procedure, hearing, grounds for refusal, penalties — revocation, when, appeal — recertification or relicensure, examination required.

339.543. Mortgage fraud, commission may file court action — civil penalty — investigation authority.

443.809. Examination, powers of director to inspect records of licensed persons.

443.810. Penalty for violations.

443.891. Charge in support of removal or prohibition notice issued on certain findings of conduct.

443.930. Prohibited acts — constitutes mortgage fraud — no private right of action created.

570.310. Prohibited acts — constitutes mortgage fraud — venue, where — acts not precluded by prosecution.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 339.100, 339.532, 443.809, 443.810, and 443.891, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 339.100, 339.175, 339.532, 339.543, 443.809, 443.810, 443.891, 443.930, and 570.310, to read as follows:

339.100. INVESTIGATION OF CERTAIN PRACTICES, PROCEDURE — SUBPOENAS — FORMAL COMPLAINTS — REVOCATION OR SUSPENSION OF LICENSES — DIGEST MAY BE PUBLISHED — REVOCATION OF LICENSES FOR CERTAIN OFFENSES. — 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a

violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

(13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or

listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

(17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(25) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or license renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision;

(26) Engaging in, committing, or assisting any person in engaging in or committing mortgage fraud, as defined in section 443.930, RSMo.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children; [and]

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material; and

(5) Mortgage fraud as defined in section 570.310, RSMo.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commission.

339.175. MORTGAGE FRAUD, COMMISSION MAY FILE COURT ACTION — CIVIL PENALTY — INVESTIGATION AUTHORITY. — 1. If the commission believes that a real estate broker or real estate sales person has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mortgage fraud, as defined in section 443.930, RSMo, or that a person has materially aided or is materially aiding any such act, practice, omission, course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

2. The court may impose a civil penalty against the person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper under the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and

other evidence. The commission may conduct joint investigations, enter into confidentiality agreements and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

339.532. REFUSAL TO ISSUE OR RENEW CERTIFICATE OR LICENSE, PROCEDURE, HEARING, GROUNDS FOR REFUSAL, PENALTIES — REVOCATION, WHEN, APPEAL — RECERTIFICATION OR RELICENSURE, EXAMINATION REQUIRED. — 1. The commission may refuse to issue or renew any certificate or license issued pursuant to sections 339.500 to 339.549 for one or any combination of causes stated in subsection 2 of this section. The commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

(1) Procuring or attempting to procure a certificate or license pursuant to section 339.513 by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure, or through any form of fraud or misrepresentation;

(2) Failing to meet the minimum qualifications for certification or licensure or renewal established by sections 339.500 to 339.549;

(3) Paying money or other valuable consideration, other than as provided for by section 339.513, to any member or employee of the commission to procure a certificate or license pursuant to sections 339.500 to 339.549;

(4) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 339.500 to 339.549 for any offense of which an essential element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;

(6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;

(7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;

(8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549;

(11) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined analysis or opinion or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment;

(12) Violating the confidential nature of governmental records to which the person gained access through employment or engagement to perform an appraisal assignment or specialized appraisal services for a governmental agency;

(13) Violating any term or condition of a certificate or license issued by the commission pursuant to the authority of sections 339.500 to 339.549;

(14) Violation of any professional trust or confidence;

(15) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(16) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 339.500 to 339.549 who is not licensed or certified and currently eligible to practice pursuant to sections 339.500 to 339.549;

(17) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(18) Disciplinary action against the holder of a license, certificate or other right to practice any profession regulated pursuant to sections 339.500 to 339.549, imposed by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(19) Making any material misstatement, misrepresentation, or omission with regard to any application for licensure or certification, or for license or certification renewal. As used in this section, "material" means important information about which the commission should be informed and which may influence a licensing decision;

(20) Engaging in or committing, or assisting any person in engaging in or committing, any practice or act of mortgage fraud, as defined in section 443.930, RSMo.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the commission may, singly or in combination, publicly censure or place the person named in the complaint on probation on such terms and conditions as the commission deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke, the certificate or license. The holder of a certificate or license revoked pursuant to this section may not obtain certification as a state-certified real estate appraiser or licensure as a state-licensed real estate appraiser for at least five years after the date of revocation.

4. Notwithstanding other provisions of this section, a real estate appraiser license or certification shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of mortgage fraud as defined in section 570.310, RSMo. The commission shall notify the individual of the reasons for the revocation in writing, by certified mail.

5. A person whose license is revoked under subsection 4 of this section may appeal such revocation to the administrative hearing commission, as provided by chapter 621, within ninety days from the time the commission mails the notice of revocation. A person who fails to do so waives all rights to appeal the revocation.

6. A certification of a state-certified real estate appraiser or a license of a state-licensed real estate appraiser that has been suspended as a result of disciplinary action by the commission shall not be reinstated, and a person may not obtain certification as a state-certified real estate appraiser or licensure as a state-licensed real estate appraiser subsequent to revocation, unless the applicant presents evidence of completion of the continuing education required by section 339.530 during the period of suspension or revocation as well as fulfillment of any other conditions imposed by the commission. Applicants for recertification, relicensure or reinstatement also shall be required to successfully complete the examination for original certification or licensure required by section 339.515 as a condition to reinstatement of certification or licensure, or recertification or relicensure subsequent to revocation.

339.543. MORTGAGE FRAUD, COMMISSION MAY FILE COURT ACTION — CIVIL PENALTY — INVESTIGATION AUTHORITY. — 1. If the commission believes that an appraiser has engaged in, is engaging in, or has willfully taken a substantial step toward engaging in an act, practice, omission, or course of business constituting mortgage fraud, as defined in section 443.930, RSMo, or that a person has materially aided or is materially aiding any such act, practice, omission, or course of business, the commission may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the person. Upon a proper showing, the court may issue a permanent or temporary injunction, restraining order, or declaratory judgment.

2. The court may impose a civil penalty against the person not to exceed two thousand five hundred dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances including, but not limited to, a temporary suspension of any license issued by the commission.

3. The commission may initiate an investigation and take all measures necessary to find the facts of any potential violation of this section, including issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents and other evidence. The commission may conduct joint investigations, enter into confidentiality agreements, and share information obtained relating to an investigation under this section with other governmental agencies.

4. The enforcement authority of the commission under this section is cumulative to any other statutory authority of the commission.

443.809. EXAMINATION, POWERS OF DIRECTOR TO INSPECT RECORDS OF LICENSED PERSONS. — [When the director has reasonable cause to believe that any person has not submitted an application for licensure and is conducting any of the activities described in subsection 1 of section 443.805, the director may examine all books and records of the person and any additional documentation necessary to determine whether such person is required to be licensed pursuant to sections 443.800 to 443.893.] **The director shall have the authority, at any time and as often as reasonably necessary, to investigate or examine the books and records of any licensed person to assure compliance with sections 443.800 to 443.893. The director shall have the right to examine under oath, all persons whose testimony may be required relative to the business of any person being examined or investigated under sections 443.800 to 443.893. The director shall have free and immediate access to any licensed person's places of business and to all books and records related to the licensed business.**

443.810. PENALTY FOR VIOLATIONS. — Effective May 21, 1998, any person who violates any provision of sections 443.805 to 443.812 shall be deemed guilty of a class C felony. **In addition, in any contested case proceeding, the director or board may assess a civil penalty of up to five thousand dollars per violation for any violation of any of the provisions of sections 443.800 to 443.893.**

443.891. CHARGE IN SUPPORT OF REMOVAL OR PROHIBITION NOTICE ISSUED ON CERTAIN FINDINGS OF CONDUCT. — 1. Upon making any one or more of the following preliminary findings, the director may issue a notice of [intent to issue an order] **charges in support of [removal or prohibition, or] an order of removal and prohibition, which order may remove and prohibit a named person[, persons] or entity [or entities] from participating in loan brokering, mortgage brokering or mortgage brokerage service for any loan secured by real estate whether in the affairs of an exempt entity or in the affairs of one or more licensees [and may be permanent or for a specific shorter period of time] under sections 443.800 to 443.893, or in the affairs of any financial institution under the jurisdiction of the director.**

An order of removal or of prohibition may be permanent or for a specific term and may impose additional conditions including requiring restitution and imposition of a civil penalty not exceeding five thousand dollars per occurrence. The findings required by this section may be any one or more of the following:

(1) A finding that the [part] **person** or entity subject to the order has been convicted of a crime involving material financial loss to a licensee, a federally insured depository institution, a government-sponsored enterprise, a Federal Home Loan Bank, a Federal Reserve Bank or any other person;

(2) A finding that the person or entity subject to the order has [submitted, or caused to be submitted, any document that contains multiple willful and material misstatements of facts and includes the signature of the person or entity specified in the director's order or that is notarized, certified, verified or is in any other way attested to as to the document's veracity. An application for licensure or license renewal may be considered such a document.], **in connection with the application for or procurement of a loan secured by real estate, made any material misstatement, misrepresentation, or omission.** As used in this section, "material" means important information about which the board should be informed and which may influence a licensing or lending decision;

(3) A finding that the person subject to the order has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of mortgage fraud as defined in section 570.310, RSMo.

2. If a hearing is requested, the director or his or her designee shall conduct a hearing under chapter 536, RSMo.

3. If the respondent defaults, consents to an order of removal and prohibition, or if upon the record the director finds the grounds specified supporting a removal and prohibition are established, the director may issue such an order including conditions for restitution or for a civil penalty not to exceed five thousand dollars per occurrence to be effective thirty days after service and to remain in effect and enforceable except to the extent it is stayed, modified, terminated or set aside by action of the director or a reviewing court.

443.930. PROHIBITED ACTS — CONSTITUTES MORTGAGE FRAUD — NO PRIVATE RIGHT OF ACTION CREATED. — 1. It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to:

(1) Employ a device, scheme, or artifice to defraud;

(2) Make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading;

(3) Receive any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with a real estate closing that such person knew involved a violation of this section; or

(4) Influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal, except that this subsection does not prohibit a mortgage lender, mortgage broker, mortgage banker, real estate licensee, or other person from asking the appraiser to do one or more of the following:

(a) Consider additional property information;

(b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(c) Correct errors in the appraisal report in compliance with the Uniform Standards of Professional Appraisal Practice.

2. Such acts shall be deemed to constitute mortgage fraud.

3. This section shall not be construed to create a private right of action.

570.310. PROHIBITED ACTS — CONSTITUTES MORTGAGE FRAUD — VENUE, WHERE — ACTS NOT PRECLUDED BY PROSECUTION. — 1. It is unlawful for a person, in connection with the application for or procurement of a loan secured by real estate to willfully:

- (1) Employ a device, scheme, or artifice to defraud;**
- (2) Make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading;**
- (3) Receive any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with a real estate closing that such person knew involved a violation of this section; or**
- (4) Influence, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal, except that this subsection does not prohibit a mortgage lender, mortgage broker, mortgage banker, real estate licensee, or other person from asking the appraiser to do one or more of the following:**
 - (a) Consider additional property information;**
 - (b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or**
 - (c) Correct errors in the appraisal report in compliance with the Uniform Standards of Professional Appraisal Practice.**
- 2. Such acts shall be deemed to constitute mortgage fraud.**
- 3. Mortgage fraud is a class C felony.**
- 4. Each transaction in violation of this section shall constitute a separate offense.**
- 5. Venue over any dispute relating to mortgage fraud or a conspiracy or endeavor to engage in or participate in a pattern of mortgage fraud shall be:**
 - (1) In the county in which the real estate is located;**
 - (2) In the county in which any act was performed in furtherance of mortgage fraud;**
 - (3) In any county in which any person alleged to have violated this section had control or possession of any proceeds from mortgage fraud;**
 - (4) In any county in which a related real estate closing occurred; or**
 - (5) In any county in which any document related to a mortgage fraud is filed with the recorder of deeds.**
- 6. Prosecution under the provisions of this section shall not preclude:**
 - (1) The power of this state to punish a person for conduct that constitutes a crime under other laws of this state;**
 - (2) A civil action by any person;**
 - (3) Administrative or disciplinary action by the state or the United States or by any agency of the state or the United States;**
 - (4) A civil forfeiture action; or**
 - (5) An action under chapter 407, RSMo.**

Approved June 11, 2008

HB 2191 [SS SCS HB 2191]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Clarifies that a school district may participate in the A+ Schools Program regardless of its accreditation status by the State Board of Education if the district meets all other requirements

AN ACT to repeal sections 160.545, 173.256, and 173.258, RSMo, and to enact in lieu thereof three new sections relating to higher education scholarships.

SECTION

- A. Enacting clause.
- 160.545. A+ school program established — purpose — rules — variable fund match requirement — waiver of rules and regulations, requirement — reimbursement for higher education costs for students — evaluation — reimbursement for two-year schools.
- 173.256. Kids' chance scholarship — fund created, how terminated, lapse into general revenue prohibited.
- 173.258. Director to deposit funds in kids' chance scholarship fund, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.545, 173.256, and 173.258, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.545, 173.256, and 173.258, to read as follows:

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION — REIMBURSEMENT FOR TWO-YEAR SCHOOLS. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

- (1) All students be graduated from school;
- (2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and
- (3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

- (1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and
- (2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and
- (3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and
- (4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. **A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.**

4. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

[4.] 5. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

[5.] 6. For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 6 of this section.

[6.] 7. The commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or **within the limits established in subsection 9 of this section any two-year public or private** vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section, except that students who are active duty military dependents who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

[7.] 8. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

9. **For a two-year public or private vocational or technical school to obtain reimbursements under subsection 7 of this section, except for those schools that are**

receiving reimbursements on August 28, 2008, the following requirements shall be satisfied:

(1) Such two-year public or private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year public or private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year public or private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of article IX, section 8, or article I, section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

173.256. KIDS' CHANCE SCHOLARSHIP — FUND CREATED, HOW TERMINATED, LAPSE INTO GENERAL REVENUE PROHIBITED. — 1. The department of higher education shall collect and distribute funds for the kids' chance scholarship pursuant to section 173.254, however, the department shall not distribute the corpus provided by section 173.258. **The department may distribute any accrued interest in the fund as scholarships after the second Monday in October of 2008.**

2. There is hereby created in the state treasury the "Kids' Chance Scholarship Fund", which shall consist of all moneys deposited in the fund pursuant to section 173.258 and all moneys which may be appropriated to it by the general assembly, from federal or other sources, including private donations. Upon termination of the fund, all moneys in the fund shall be transferred for the use of the division of workers' compensation for deposit in the fund created by virtue of section 287.690, RSMo.

3. The state treasurer shall administer the fund and credit all interest to the fund and the moneys in the fund shall be used solely upon appropriation by the department for the expenses of carrying out its duties pursuant to this section.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

173.258. DIRECTOR TO DEPOSIT FUNDS IN KIDS' CHANCE SCHOLARSHIP FUND, WHEN. — The director of the division of workers' compensation shall deposit fifty thousand dollars from the premium tax collected pursuant to section 287.690, RSMo, on the second Monday in October of each year beginning in 1999 until [2008] **2018** into the kids' chance scholarship fund.

Approved July 10, 2008

HB 2213 [HB 2213]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Governor to issue a proclamation annually designating the second week of September as Parent and Family Involvement in Education Week

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of parent and family involvement in education week.

SECTION

A. Enacting clause.

9.139. Parent and Family Involvement in Education Week to be designated annually, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.139, to read as follows:

9.139. PARENT AND FAMILY INVOLVEMENT IN EDUCATION WEEK TO BE DESIGNATED ANNUALLY, WHEN. — **The governor shall annually issue a proclamation setting apart the second week of September as "Parent and Family Involvement in Education Week", and recommending to the people of the state that the week be appropriately observed through activities that will bring about an increased awareness of the importance and benefits of parent and family involvement in education and encourage greater involvement of parents and families in their children's education, both in the school and in the home. The parent and family involvement in education week recognizes that parent and family involvement in a child's education is a major factor in determining success in school, regardless of the socio-economic status, race, or ethnic background of the family, or the education level of the parents.**

Approved June 10, 2008

HB 2224 [CCS SS SCS HB 2224]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Creates the Deputy Sheriff Salary Supplementation Fund and revises continuing education requirements for peace officers

AN ACT to repeal sections 57.280, 488.435, 590.050, and 650.350, RSMo, and to enact in lieu thereof five new sections relating to the training and compensation of law enforcement officers.

SECTION

A. Enacting clause.

57.278. Deputy sheriff salary supplementation fund created, use of moneys.

57.280. Sheriff to receive charge, civil cases.

488.435. Sheriff to receive charges for civil cases.

590.050. Continuing education requirements.

650.350. Missouri sheriff methamphetamine relief taskforce created, members, compensation, meetings — MoSMART fund created — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 57.280, 488.435, 590.050, and 650.350, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 57.278, 57.280, 488.435, 590.050, and 650.350, to read as follows:

57.278. DEPUTY SHERIFF SALARY SUPPLEMENTATION FUND CREATED, USE OF MONEYS. — **1. There is hereby created in the state treasury the "Deputy Sheriff Salary Supplementation Fund", which shall consist of money collected from charges for service received by county sheriffs under subsection 4 of section 57.280. The money in the fund**

shall be used solely to supplement the salaries, and employee benefits resulting from such salary increases, of county deputy sheriffs. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The Missouri sheriff methamphetamine relief taskforce created under section 650.350, RSMo, shall administer the fund.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

57.280. SHERIFF TO RECEIVE CHARGE, CIVIL CASES. — 1. Sheriffs shall receive a charge for service of any summons, writ or other order of court, in connection with any civil case, and making on the same either a return indicating service, a non est return or a nulla bona return, the sum of twenty dollars for each item to be served, except that a sheriff shall receive a charge for service of any subpoena, and making a return on the same, the sum of ten dollars; however, no such charge shall be collected in any proceeding when court costs are to be paid by the state, county or municipality. In addition to such charge, the sheriff shall be entitled to receive for each mile actually traveled in serving any summons, writ, subpoena or other order of court, the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile, provided that such mileage shall not be charged for more than one subpoena or summons or other writ served in the same cause on the same trip. All of such charges shall be received by the sheriff who is requested to perform the service. Except as otherwise provided by law, all charges made pursuant to this section shall be collected by the court clerk as court costs and are payable prior to the time the service is rendered; provided that if the amount of such charge cannot be readily determined, then the sheriff shall receive a deposit based upon the likely amount of such charge, and the balance of such charge shall be payable immediately upon ascertainment of the proper amount of said charge. A sheriff may refuse to perform any service in any action or proceeding, other than when court costs are waived as provided by law, until the charge provided by this section is paid. Failure to receive the charge shall not affect the validity of the service.

2. The sheriff shall receive for receiving and paying moneys on execution or other process, where lands or goods have been levied and advertised and sold, five percent on five hundred dollars and four percent on all sums above five hundred dollars, and half of these sums, when the money is paid to the sheriff without a levy, or where the lands or goods levied on shall not be sold and the money is paid to the sheriff or person entitled thereto, his agent or attorney. The party at whose application any writ, execution, subpoena or other process has issued from the court shall pay the sheriff's costs for the removal, transportation, storage, safekeeping and support of any property to be seized pursuant to legal process before such seizure. The sheriff shall be allowed for each mile, going and returning from the courthouse of the county in which he resides to the place where the court is held, the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile. The provisions of this subsection shall not apply to garnishment proceeds.

3. The sheriff upon the receipt of the charge herein provided for shall pay into the treasury of the county any and all charges received pursuant to the provisions of this section; however, in any county, any funds, not to exceed fifty thousand dollars in any calendar year, other than as a result of regular budget allocations or land sale proceeds, coming into the possession of the sheriff's office, such as from the sale of recovered evidence, shall be held in a fund established by the county treasurer, which may be expended at the discretion of the sheriff for the furtherance of the sheriff's set duties. Any such funds in excess of fifty thousand dollars, other than regular budget allocations or land sale proceeds, shall be placed to the credit of the general revenue fund of the county. Moneys in the fund shall be used only for the procurement of

services and equipment to support the operation of the sheriff's office. Moneys in the fund established pursuant to this subsection shall not lapse to the county general revenue fund at the end of any county budget or fiscal year.

4. Notwithstanding the provisions of subsection 3 of this section to the contrary, the sheriff shall receive ten dollars for service of any summons, writ, subpoena, or other order of the court included under subsection 1 of this section, in addition to the charge for such service that each sheriff receives under subsection 1 of this section. The money received by the sheriff under this subsection shall be paid into the county treasury and the county treasurer shall make such money payable to the state treasurer. The state treasurer shall deposit such moneys in the deputy sheriff salary supplementation fund created under section 57.278.

488.435. SHERIFF TO RECEIVE CHARGES FOR CIVIL CASES. — 1. Sheriffs shall receive a charge, as provided in section 57.280, RSMo, for service of any summons, writ or other order of court, in connection with any civil case, and making on the same either a return indicating service, a non est return or a nulla bona return, the sum of twenty dollars for each item to be served, as provided in section 57.280, RSMo, except that a sheriff shall receive a charge for service of any subpoena, and making a return on the same, the sum of ten dollars, as provided in section 57.280, RSMo; however, no such charge shall be collected in any proceeding when court costs are to be paid by the state, county or municipality. In addition to such charge, the sheriff shall be entitled, as provided in section 57.280, RSMo, to receive for each mile actually traveled in serving any summons, writ, subpoena or other order of court, the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile, provided that such mileage shall not be charged for more than one subpoena or summons or other writ served in the same cause on the same trip. All of such charges shall be received by the sheriff who is requested to perform the service. Except as otherwise provided by law, all charges made pursuant to section 57.280, RSMo, shall be collected by the court clerk as court costs and are payable prior to the time the service is rendered; provided that if the amount of such charge cannot be readily determined, then the sheriff shall receive a deposit based upon the likely amount of such charge, and the balance of such charge shall be payable immediately upon ascertainment of the proper amount of such charge. A sheriff may refuse to perform any service in any action or proceeding, other than when court costs are waived as provided by law, until the charge provided by this section is paid. Failure to receive the charge shall not affect the validity of the service.

2. The sheriff shall, as provided in section 57.280, RSMo, receive for receiving and paying moneys on execution or other process, where lands or goods have been levied and advertised and sold, five percent on five hundred dollars and four percent on all sums above five hundred dollars, and half of these sums, when the money is paid to the sheriff without a levy, or where the lands or goods levied on shall not be sold and the money is paid to the sheriff or person entitled thereto, his or her agent or attorney. The party at whose application any writ, execution, subpoena or other process has issued from the court shall pay the sheriff's costs, as provided in section 57.280, RSMo, for the removal, transportation, storage, safekeeping and support of any property to be seized pursuant to legal process before such seizure. The sheriff shall be allowed for each mile, as provided in section 57.280, RSMo, going and returning from the courthouse of the county in which he or she resides to the place where the court is held, the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile. The provisions of this subsection shall not apply to garnishment proceeds.

3. As provided in subsection 4 of section 57.280, RSMo, the sheriff shall receive ten dollars for service of any summons, writ, subpoena, or other order of the court included under subsection 1 of such section, in addition to the charge for such service that each sheriff receives under subsection 1 of such section. The money received by the sheriff under subsection 4 of section 57.280, RSMo, shall be paid into the county treasury and the

county treasurer shall make such money payable to the state treasurer. The state treasurer shall deposit such moneys in the deputy sheriff salary supplementation fund created under section 57.278, RSMo.

590.050. CONTINUING EDUCATION REQUIREMENTS. — 1. The POST commission shall establish requirements for the continuing education of all peace officers. Peace officers who make traffic stops shall be required to receive [annual training] **three hours of training within the law enforcement continuing education three-year reporting period** concerning the prohibition against racial profiling and such training shall promote understanding and respect for racial and cultural differences and the use of effective, noncombative methods for carrying out law enforcement duties in a racially and culturally diverse environment.

2. The director shall license continuing education providers and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision of the director pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. The costs of continuing law enforcement education shall be reimbursed in part by moneys from the peace officer standards and training commission fund created in section 590.178, subject to availability of funds, except that no such funds shall be used for the training of any person not actively commissioned or employed by a county or municipal law enforcement agency.

4. The director may engage in any activity intended to further the professionalism of peace officers through training and education, including the provision of specialized training through the department of public safety.

650.350. MISSOURI SHERIFF METHAMPHETAMINE RELIEF TASKFORCE CREATED, MEMBERS, COMPENSATION, MEETINGS — MOSMART FUND CREATED — RULEMAKING AUTHORITY. — 1. There is hereby created within the department of public safety the "Missouri Sheriff Methamphetamine Relief Taskforce" (MoSMART). MoSMART shall be composed of five sitting sheriffs. Every two years, the Missouri Sheriffs' Association board of directors will submit twenty names of sitting sheriffs to the governor. The governor shall appoint five members from the list of twenty names, having no more than three from any one political party, to serve a term of two years on MoSMART. The members shall elect a chair from among their membership. Members shall receive no compensation for the performance of their duties pursuant to this section, but each member shall be reimbursed from the MoSMART fund for actual and necessary expenses incurred in carrying out duties pursuant to this section.

2. MoSMART shall meet no less than twice each calendar year with additional meetings called by the chair upon the request of at least two members. A majority of the appointed members shall constitute a quorum.

3. A special fund is hereby created in the state treasury to be [know] **known** as the "MoSMART Fund". The state treasurer shall invest the moneys in such fund in the manner authorized by law. All moneys received for MoSMART from interest, state, and federal moneys shall be deposited to the credit of the fund. The director of the department of public safety shall distribute at least fifty percent but not more than one hundred percent of the fund annually in the form of grants approved by MoSMART.

4. **Except for money deposited into the deputy sheriff salary supplementation fund created under section 57.278, RSMo**, all moneys appropriated to or received by MoSMART shall be deposited and credited to the MoSMART fund. The department of public safety shall only be reimbursed for actual and necessary expenses for the administration of MoSMART, which shall be no less than one percent and which shall not exceed two percent of all moneys appropriated to the fund, **except that the department shall not receive any amount of the money deposited into the deputy sheriff salary supplementation fund for administrative**

purposes. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the MoSMART fund shall not lapse to general revenue at the end of the biennium.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

6. Any county law enforcement entity or established task force with a memorandum of understanding and protocol may apply for grants from the MoSMART fund on an application to be developed by the department of public safety with the approval of MoSMART. All applications shall be evaluated by MoSMART and approved or denied based upon the level of funding designated for methamphetamine enforcement before 1997 and upon current need and circumstances. No applicant shall receive a MoSMART grant in excess of one hundred thousand dollars per year. The department of public safety shall monitor all MoSMART grants.

7. MoSMART's anti-methamphetamine funding priorities are as follows:

(1) Sheriffs who are participating in coordinated multijurisdictional task forces and have their task forces apply for funding;

(2) Sheriffs whose county has been designated HIDTA counties, yet have received no HIDTA or narcotics assistance program funding; and

(3) Sheriffs without HIDTA designations or task forces, whose application justifies the need for MoSMART funds to eliminate methamphetamine labs.

8. MoSMART shall administer the deputy sheriff salary supplementation fund as provided under section 57.278, RSMo.

Approved June 26, 2008

HB 2233 [HB 2233]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits an employee or official of any political subdivision from seeking a political appointment in exchange for anything of value to any political subdivision

AN ACT to repeal section 105.452, RSMo, and to enact in lieu thereof one new section relating to prohibited acts by public officials and employees.

SECTION

A. Enacting clause.

105.452. Prohibited acts by elected and appointed public officials and employees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 105.452, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.452, to read as follows:

105.452. PROHIBITED ACTS BY ELECTED AND APPOINTED PUBLIC OFFICIALS AND EMPLOYEES. — **1.** No elected or appointed official or employee of the state or any political subdivision thereof shall:

(1) Act or refrain from acting in any capacity in which he is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person, including any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision; or

(2) Use confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself, his spouse, his dependent child in his custody, or any business with which he is associated;

(3) Disclose confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person;

(4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the state of Missouri or any third party by reason of such act. For the purposes of this subdivision, "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters such officials must recuse themselves from acting [and shall not be relieved by reason of the provisions of section 105.460], except that such official may act on increases in compensation subject to the restrictions of section 13 of article VII of the Missouri Constitution; or

(5) Use his decision-making authority for the purpose of obtaining a financial gain which materially enriches himself, his spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary value.

2. No elected or appointed official or employee of any political subdivision shall offer, promote, or advocate for a political appointment in exchange for anything of value to any political subdivision.

Approved June 25, 2008

HB 2360 [HCS HB 2360]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates a portion of State Highway 169 in Gentry County as the "Mo. Hwy. Patrol Corporal Henry C. Bruns Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to a memorial highway designation.

SECTION

- A. Enacting clause.
227.398. Mo. Hwy. Patrol Corporal Henry C. Bruns Memorial Highway designated for a portion of Highway 169 in Gentry County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.398, to read as follows:

227.398. MO. HWY. PATROL CORPORAL HENRY C. BRUNS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 169 IN GENTRY COUNTY. — The portion of Highway 169 in Gentry County from the city limits of King City south one mile shall be designated the "Mo. Hwy. Patrol Corporal Henry C. Bruns Memorial Highway". Costs for such designation shall be paid by private donation.

Approved June 17, 2008

HB 2393 [SS SCS HCS HB 2393]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes a tax credit for mega-projects in enhanced enterprise zones

AN ACT to repeal sections 135.950 and 135.967, RSMo, and to enact in lieu thereof three new sections relating to enhanced enterprise zones.

SECTION

- A. Enacting clause.
- 135.950. Definitions.
- 135.967. Tax credit allowed, duration — prohibition on receiving other tax credits — limitations on issuance of tax credits — cap — eligibility of certain expansions — employee calculations — computation of credit — flow-through tax treatments — credits may be claimed, when — certificates — refunds — verification procedures.
- 135.968. Megaprojects, tax credit authorized, eligibility — department duties — binding contract required, when — issuance of credits, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.950 and 135.967, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.950, 135.967, and 135.968, to read as follows:

135.950. DEFINITIONS. — The following terms, whenever used in sections 135.950 to 135.970 mean:

(1) "Average wage", the new payroll divided by the number of new jobs;

[(1)] (2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

[(2)] (3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;

[(3)] (4) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;

(5) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least

annually. Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, such taxpayer shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

[(4)] (6) "Department", the department of economic development;

[(5)] (7) "Director", the director of the department of economic development;

[(6)] (8) "Employee", a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;

[(7)] (9) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

(a) Identified by the department as critical to the state's economic security and growth; or

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking places (NAICS subsector 722), however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied. Service industries may be eligible only if a majority of its annual revenues will be derived from out of the state;

[(8)] (10) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

[(9)] (11) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

[(10)] (12) "Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;

[(11)] (13) "Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

[(12)] (14) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

[(13)] (15) **"Mega-project", any manufacturing or assembling facility, approved by the department for construction and operation within an enhanced enterprise zone, which satisfies the following:**

(a) The new capital investment is projected to exceed three hundred million dollars over a period of eight years from the date of approval by the department;

(b) The number of new jobs is projected to exceed one thousand over a period of eight years beginning on the date of approval by the department;

(c) The average wage of new jobs to be created shall exceed the county average wage;

(d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty percent of such insurance premiums; and

(e) An acceptable plan of repayment, to the state, of the tax credits provided for the mega-project has been provided by the taxpayer;

(16) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

[(14)] (17) "New business facility", a facility that satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision [(22)] (25) of this section;

[(15)] (18) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

[(16)] (19) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the

total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

[(17)] **(20)** "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

[(18)] **(21)** "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

[(19)] **(22)** "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

[(20)] **(23)** "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent; or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

[(21)] **(24)** "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer;

or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(22)] **(25)** "Replacement business facility", a facility otherwise described in subdivision [(14)] **(17)** of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility.

Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision [(16)] **(19)** of this section, in the new facility during the tax period for which the credits allowed in section 135.967 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

[(23)] **(26)** "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted,

are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

135.967. TAX CREDIT ALLOWED, DURATION — PROHIBITION ON RECEIVING OTHER TAX CREDITS — LIMITATIONS ON ISSUANCE OF TAX CREDITS — CAP — ELIGIBILITY OF CERTAIN EXPANSIONS — EMPLOYEE CALCULATIONS — COMPUTATION OF CREDIT — FLOW-THROUGH TAX TREATMENTS — CREDITS MAY BE CLAIMED, WHEN — CERTIFICATES — REFUNDS — VERIFICATION PROCEDURES. — 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to [135.268] **135.286**, or section 135.535, **and may not simultaneously receive tax credits under sections 620.1875 to 620.1890, RSMo, at the same facility.**

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than fourteen million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision [(14)] **(19)** of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(14)] (17) of section 135.950, or subdivision [(22)] (25) of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee who is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(14)] (17) of section 135.950 or subdivision [(22)] (25) of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision [(14)] (19) of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

14. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

135.968. MEGAPROJECTS, TAX CREDIT AUTHORIZED, ELIGIBILITY — DEPARTMENT DUTIES — BINDING CONTRACT REQUIRED, WHEN — ISSUANCE OF CREDITS, PROCEDURE. —

1. A taxpayer who establishes a mega-project, approved by the department, within an enhanced enterprise zone shall, in exchange for the consideration provided by new tax revenues and other economic stimuli that will be generated from the new jobs created by the mega-project, be allowed an income tax credit equal to the percentage of actual new annual payroll of the taxpayer attributable to employees directly related to the manufacturing and assembly process and administration, as provided under subsection 4 of this section. A taxpayer seeking approval of a mega-project shall submit an application to the department. The department shall not approve any mega-project after December 31, 2008. The department shall not approve any credits for mega-projects to be issued prior to January 1, 2013, and in no event shall the department authorize more than forty million dollars to be issued annually for all mega-projects. The total amount of credits issued under this section shall not exceed two hundred forty million dollars.

2. In considering applications for approval of mega-projects, the department may approve an application if:

(1) The taxpayer's project is financially sound and the taxpayer has adequately demonstrated an ability to successfully undertake and complete the mega-project. This determination shall be supported by a professional third party market feasibility analysis conducted on behalf of the state by a firm with direct experience with the industry of the proposed mega-project, and by a professional third party financial analysis of the taxpayer's ability to complete the project;

(2) The taxpayer's plan of repayment to the state of the amount of tax credits provided is reasonable and sound;

(3) The taxpayer's mega-project will create new jobs that were not jobs previously performed by employees of the taxpayer or a related taxpayer in Missouri;

(4) Local taxing entities are providing a significant level of incentives for the mega-project relative to the projected new local tax revenues created by the mega-project;

(5) There is at least one other state or foreign country that the taxpayer verifies is being considered for the project, and receiving mega-project tax credits is a major factor in the taxpayer's decision to go forward with the project and not receiving the credit will result in the taxpayer not creating new jobs in Missouri;

(6) The mega-project will be located in an enhanced enterprise zone which constitutes an economic or social liability and a detriment to the public health, safety, morals, or welfare in its present condition and use;

(7) The completion of the mega-project will serve an essential public municipal purpose by creating a substantial number of new jobs for citizens, increasing their purchasing power, improving their living conditions, and relieving the demand for unemployment and welfare assistance thereby promoting the economic development of the enhanced enterprise zone, the municipality, and the state; and

(8) The creation of new jobs will assist the state in providing the services needed to protect the health, safety, and social and economic well-being of the citizens of the state.

3. Prior to final approval of an application, a binding contract shall be executed between the taxpayer and the department of economic development which shall include, but not be limited to:

(1) A repayment plan providing for cash payment to the state general revenue fund which shall result in a positive internal rate of return to the state and fully comply with the provisions of the World Trade Organization Agreement on Subsidies and Countervailing Measures. The rate of return shall be commercially reasonable and, over the life of the project, exceed one hundred and fifty percent of the state's borrowing costs based on the AAA-rated twenty-year tax exempt bond rate average over a twenty-year borrowing period. The rate shall be verified by a professional third-party financial analysis;

(2) The taxpayer's obligation to construct a facility of at least one million square feet within five years from the date of approval;

(3) A requirement that the issuance of tax credits authorized under this section shall cease and the taxpayer shall immediately submit payment, to the state general revenue fund, in an amount equal to all credits previously issued less any amounts previously repaid, increased by an additional amount that shall provide the state a reasonable rate of return, in the event the taxpayer:

(a) Fails to construct a facility of at least one million square feet within five years of the date of approval;

(b) Fails to make a scheduled payment as required by the repayment plan; or

(c) Fails to compensate new jobs at rate equal to or in excess of the county average wage or fails to offer health insurance to all such new jobs and pay at least eighty percent of such premiums; and

(4) A requirement that the department shall suspend issuance of tax credits authorized under this section if, at any point, the total amount of tax credits issued less the total amount of repayments received equals one hundred and fifty-five million dollars.

4. Upon approval of an application by the department, tax credits shall be issued annually for a period not to exceed eight years from the commencement of commercial operations of the mega-project. The eight-year period for the issuance of mega-project tax credits may extend beyond the expiration of the enhanced enterprise zone. The maximum percentage of the annual payroll of the taxpayer for new jobs located at the mega-project which may be approved or issued by the department for tax credits shall not exceed:

(1) Eighty percent for the first three years that tax credits will be issued for the mega-project;

(2) Sixty percent for the next two subsequent years;

(3) Fifty percent for the next two subsequent years; and

(4) Thirty percent for the remaining year.

In no event shall the department issue more than forty million dollars annually in mega-project tax credits to any taxpayer. In any given year, the amount of tax credits issued shall be the lesser of forty million dollars, the applicable annual payroll percentage, or the amount of tax credits remaining unissued under the two hundred and forty million dollar limitation on mega-project tax credit issuance provided under subsection 1 of this section.

5. Tax credits issued under this section may be claimed against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. For taxpayers with flow-through tax treatment of its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period. The director of revenue shall issue a refund to a taxpayer to the extent the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax liability in the year redemption is authorized. An owner of tax credits issued under this section shall not be required to have any Missouri income tax liability in order to redeem such tax credits and receive a refund. The director of revenue shall prepare a form to permit the owner of such tax credits to obtain a refund.

6. Certificates of tax credits authorized under this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. Upon such transfer, sale, or assignment, the transferee shall be the owner of such tax credits entitled to claim the tax credits or any refunds with respect thereto issued to the taxpayer. Tax credits may not be carried forward past the year of issuance. Tax credits authorized by this section may not be pledged or used to secure any bonds or other indebtedness issued by the state or any political subdivision of the state. Once such tax credits have been issued, nothing shall prohibit the owner of the tax credits from pledging the tax credits to any lender or other third-party.

7. Any taxpayer issued tax credits under this section shall provide an annual report to the department and the house and senate appropriations committees of the number of new jobs located at the mega-project, the new annual payroll of such new jobs, and such other information as may be required by the department to document the basis for benefits under this section. The department may withhold the approval of the annual issuance of any tax credits until it is satisfied that proper documentation has been provided, and shall reduce the tax credits to reflect any reduction in new payroll. If the department determines the average wage is below the county average wage, or the taxpayer has not maintained employee health insurance as required, the taxpayer shall not receive tax credits for that year.

8. Notwithstanding any provision of law to the contrary, any taxpayer who is awarded tax credits under this section shall not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 620.1875 to 620.1890, RSMo.

9. Any action brought in any court contesting the approval of a mega-project and the issuance of the tax credits, or any other action undertaken pursuant to this section related to such mega-project, shall be filed within ninety days following approval of the mega-project by the department.

10. Records and documents relating to a proposed mega-project shall be deemed closed records until such time as the application has been approved. Provisions of this subsection to the contrary notwithstanding, records containing business plan information which may endanger the competitiveness of the business shall remain closed.

11. Notwithstanding any provision of this section to the contrary, no taxpayer who receives mega-project tax credits authorized under this section or any related taxpayer shall employ, prior to January 1, 2022, directly:

(1) Any elected public official of this state holding office as of January 1, 2008;

(2) Any director, deputy director, division director, or employee directly involved in negotiations between the department of economic development and a taxpayer relative to the mega-project who was employed as of January 1, 2008, by the department.

Approved May 22, 2008

SB 711 [CCS HCS SS SCS SB 711]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding property taxation

AN ACT to repeal sections 52.240, 67.110, 135.010, 135.025, 135.030, 137.016, 137.055, 137.073, 137.082, 137.092, 137.106, 137.115, 137.122, 137.180, 137.245, 137.275, 137.335, 137.355, 137.375, 137.390, 137.490, 137.510, 137.515, 137.720, 137.721, 137.1018, 138.010, 138.050, 138.090, 138.100, 138.110, 138.120, 138.170, 138.180, 138.380, 138.390, 138.395, 138.400, 138.430, 139.031, 163.044, and 164.151, RSMo, and to enact in lieu thereof forty-four new sections relating to property taxation, with penalty provisions.

SECTION

- A. Enacting clause.
- 52.240. Tax statements and receipts, mailed where — postage, how paid — failure to receive, effect of — claim of errors by taxpayer, procedure.
- 67.110. Fixing ad valorem property tax rates, procedure — failure to establish, effect — new or increased taxes approved after September 1 not to be included in that year's tax levy, exception.
- 135.010. Definitions.
- 135.025. Accrued taxes and rent constituting taxes to be totaled — maximum amount allowable — allocation regulations, when.
- 135.030. Formula for determining credits — table to be prepared by director of revenue — taxpayer not applying for credit to be notified of eligibility.
- 137.016. Real property, subclasses of, defined — political subdivision may adjust operating levy to recoup revenue, when — reclassification to apply, when — placement of certain property within proper subclass, factors considered.
- 137.055. County commission to fix rate of tax, when, exceptions — public hearing to be held, when, notice, effect.
- 137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
- 137.082. New construction, assessment of upon occupancy, how — payment of taxes, when — county assessor, duties — county option — natural disasters, assessment reduction allowed, effect.
- 137.092. Rental or leasing facilities to submit lessee lists.
- 137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — apportionment percentage set, how applied, notice to owners — rulemaking authority — sunset provision.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 137.122. Depreciable tangible personal property — definitions — standardized schedule to be used — valuation table — exceptions.
- 137.180. Valuation increased — assessor to notify owner — appeals to county board of equalization — notice to owners required, when, contents.
- 137.243. Projected tax liability, assessor to provide clerk with assessment book — abstract required — political subdivisions to informally project a nonbinding tax levy, procedure.
- 137.245. Assessor to prepare and return assessor's book, verification — clerk to abstract — failure, a misdemeanor — clerk to forward copy of valuations, to whom, when.
- 137.275. Appeals to county board of equalization — lodged where.
- 137.335. Blanks for assessment to be designed by state tax commission — time of making assessment.
- 137.355. Notice of increased assessment of listed property — notice to owners, when, contents.
- 137.375. Assessor to deliver book, when — affidavit — duty of county clerk — penalty for failure.
- 137.390. County commission to determine tax rate.
- 137.490. Dates of beginning and completing assessment — assessment must be uniform — notice to owners, when, contents.
- 137.510. Assessor's books — method of preparation — date to be completed.
- 137.515. Assessor to make abstract of books, when — copies certified.
- 137.720. Percentage of ad valorem property tax collections to be deducted for deposit in county assessment fund — additional deductions (St. Louis City and all counties) — expiration date.
- 137.721. Percentage of ad valorem property tax collections to be deposited in county assessment fund (certain first class counties).

- 137.1018. Statewide average rate of property taxes levied, ascertained by the commission — report submitted — taxes collected, how determined — tax credit authorized — sunset provision.
- 138.010. Membership of county board of equalization — annual meetings.
- 138.050. Rules to be observed.
- 138.090. Meetings of board (first class counties).
- 138.100. Rules — hearings (counties of the first classification).
- 138.110. Complaints to be filed with state tax commission, when (first class counties).
- 138.120. Merchants' and manufacturers' books submitted, when — notice, hearing (first class counties).
- 138.170. Length and period of meetings — subpoena witnesses — hearings (St. Louis).
- 138.180. Appeal to board of equalization, how taken.
- 138.380. Duties and powers of commission.
- 138.390. To classify and equalize property.
- 138.400. Certification of valuation changes — adjustments.
- 138.430. Right to appeal, procedure, notice to collector, when — investigation — costs and attorney's fees awarded, when.
- 138.435. Office of state ombudsman for property assessment and taxation established — administration, duties, authority.
- 139.031. Payment of current taxes under protest — action, when commenced, how tried — refunds, how made, may be used as credit for next year's taxes — interest, when allowed — collector to invest protested taxes, disbursement to taxing authorities, when.
- 163.044. Annual appropriation of fifteen million dollars for specified uses.
- 164.151. Form of ballot in all districts — percentage required for approval.
 - 1. Fee for records requested for batch/bulk customers authorized.
- 138.395. School districts, equivalent sales ratio of assessed valuation for distribution of funds, certification procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 52.240, 67.110, 135.010, 135.025, 135.030, 137.016, 137.055, 137.073, 137.082, 137.092, 137.106, 137.115, 137.122, 137.180, 137.245, 137.275, 137.335, 137.355, 137.375, 137.390, 137.490, 137.510, 137.515, 137.720, 137.721, 137.1018, 138.010, 138.050, 138.090, 138.100, 138.110, 138.120, 138.170, 138.180, 138.380, 138.390, 138.395, 138.400, 138.430, 139.031, 163.044, and 164.151, RSMo, are repealed and forty-four new sections enacted in lieu thereof, to be known as sections 52.240, 67.110, 135.010, 135.025, 135.030, 137.016, 137.055, 137.073, 137.082, 137.092, 137.106, 137.115, 137.122, 137.180, 137.243, 137.245, 137.275, 137.335, 137.355, 137.375, 137.390, 137.490, 137.510, 137.515, 137.720, 137.721, 137.1018, 138.010, 138.050, 138.090, 138.100, 138.110, 138.120, 138.170, 138.180, 138.380, 138.390, 138.400, 138.430, 138.435, 139.031, 163.044, 164.151, and 1, to read as follows:

52.240. TAX STATEMENTS AND RECEIPTS, MAILED WHERE — POSTAGE, HOW PAID — FAILURE TO RECEIVE, EFFECT OF — CLAIM OF ERRORS BY TAXPAYER, PROCEDURE. — 1. The statement and receipt required by section 52.230 shall be mailed to the address of the taxpayer as shown by the county assessor on the current tax books, and postage for the mailing of the statements and receipts shall be furnished by the county commission. The failure of the taxpayer to receive the notice provided for in section 52.230 in no case relieves the taxpayer of any tax liability imposed [on him] by law. **No penalty or interest imposed under any law shall be charged on any real or personal property tax when there is clear and convincing evidence that the county made an error or omission in determining taxes owed by a taxpayer.**

2. Any taxpayer claiming that the county made an error or omission in determining taxes owed may submit a written request for a refund of penalties, interest, or taxes to the county commission or governing body of the county. If the county commission or governing body of the county approves the refund, then such penalties, interest, or taxes shall be refunded as provided in subsection 5 of section 139.031, RSMo. The county commission shall approve or disapprove the taxpayer's written request within thirty days of receiving said request. The county collector shall refund penalties, interest, and taxes if the county made an error or omission in determining taxes owed by the taxpayer.

3. Nothing in this section shall relieve a taxpayer from paying taxes owed by December 31st and paying penalties and interest owed for failing to pay all taxes by December 31st.

67.110. FIXING AD VALOREM PROPERTY TAX RATES, PROCEDURE — FAILURE TO ESTABLISH, EFFECT — NEW OR INCREASED TAXES APPROVED AFTER SEPTEMBER 1 NOT TO BE INCLUDED IN THAT YEAR'S TAX LEVY, EXCEPTION. — 1. Each political subdivision in the state, except counties **and any political subdivision located at least partially within any county with a charter form of government or any political subdivision located at least partially within any city not within a county**, shall fix its ad valorem property tax rates as provided in this section not later than September first for entry in the tax books. **Each political subdivision located, at least partially, within a county with a charter form of government or within a city not within a county shall fix its ad valorem property tax rates as provided in this section not later than October first for entry in the tax books for each calendar year after December 31, 2008.** Before the governing body of each political subdivision of the state, except counties, as defined in section 70.120, RSMo, fixes its rate of taxation, its budget officer shall present to its governing body the following information for each tax rate to be levied: the assessed valuation by category of real, personal and other tangible property in the political subdivision as entered in the tax book for the fiscal year for which the tax is to be levied, as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivisions for the preceding taxable year, the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rate proposed to be set. Should any political subdivision whose taxes are collected by the county collector of revenue fail to fix its ad valorem property tax rate by September first, then no tax rate other than the rate, if any, necessary to pay the interest and principal on any outstanding bonds shall be certified for that year.

2. The governing body shall hold at least one public hearing on the proposed rates of taxes at which citizens [may] **shall** be heard prior to their approval. The governing body shall determine the time and place for such hearing. A notice stating the hour, date and place of the hearing shall be published in at least one newspaper qualified under the laws of the state of Missouri of general circulation in the county within which all or the largest portion of the political subdivision is situated, or such notice shall be posted in at least three public places within the political subdivision; except that, in any county of the first class having a charter form of government, such notice may be published in a newspaper of general circulation within the political subdivision even though such newspaper is not qualified under the laws of Missouri for other legal notices. Such notice shall be published or posted at least seven days prior to the date of the hearing. The notice shall include the assessed valuation by category of real, personal and other tangible property in the political subdivision for the fiscal year for which the tax is to be levied as provided by subsection 3 of section 137.245, RSMo, the assessed valuation by category of real, personal and other tangible property in the political subdivision for the preceding taxable year, for each rate to be levied the amount of revenue required to be provided from the property tax as set forth in the annual budget adopted as provided by this chapter, and the tax rates proposed to be set for the various purposes of taxation. The tax rates shall be calculated to produce substantially the same revenues as required in the annual budget adopted as provided in this chapter. Following the hearing the governing body of each political subdivision shall fix the rates of taxes, the same to be entered in the tax book. Failure of any taxpayer to appear at such hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this section absolves political subdivisions of responsibilities under section 137.073, RSMo, nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

3. Each political subdivision of the state shall fix its property tax rates in the manner provided in this section for each fiscal year which begins after December 31, 1976. New or increased tax rates for political subdivisions whose taxes are collected by the county collector approved by voters after September first of any year shall not be included in that year's tax levy except for any new tax rate ceiling approved pursuant to section 71.800, RSMo.

4. In addition to the information required under subsections 1 and 2 of this section, each political subdivision shall also include the increase in tax revenue due to an increase in assessed value as a result of new construction and improvement and the increase, both in dollar value and percentage, in tax revenue as a result of reassessment if the proposed tax rate is adopted.

135.010. DEFINITIONS. — As used in sections 135.010 to 135.030 the following words and terms mean:

(1) "Claimant", a person or persons claiming a credit under sections 135.010 to 135.030. If the persons are eligible to file a joint federal income tax return and reside at the same address at any time during the taxable year, then the credit may only be allowed if claimed on a combined Missouri income tax return or a combined claim return reporting their combined incomes and property taxes. A claimant shall not be allowed a property tax credit unless the claimant or spouse has attained the age of sixty-five on or before the last day of the calendar year and the claimant or spouse was a resident of Missouri for the entire year, or the claimant or spouse is a veteran of any branch of the armed forces of the United States or this state who became one hundred percent disabled as a result of such service, or the claimant or spouse is disabled as defined in subdivision (2) of this section, and such claimant or spouse provides proof of such disability in such form and manner, and at such times, as the director of revenue may require, or if the claimant has reached the age of sixty on or before the last day of the calendar year and such claimant received surviving spouse Social Security benefits during the calendar year and the claimant provides proof, as required by the director of revenue, that the claimant received surviving spouse Social Security benefits during the calendar year for which the credit will be claimed. A claimant shall not be allowed a property tax credit if the claimant filed a valid claim for a credit under section 137.106, RSMo, in the year following the year for which the property tax credit is claimed. The residency requirement shall be deemed to have been fulfilled for the purpose of determining the eligibility of a surviving spouse for a property tax credit if a person of the age of sixty-five years or older who would have otherwise met the requirements for a property tax credit dies before the last day of the calendar year. The residency requirement shall also be deemed to have been fulfilled for the purpose of determining the eligibility of a claimant who would have otherwise met the requirements for a property tax credit but who dies before the last day of the calendar year;

(2) "Disabled", the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A claimant shall not be required to be gainfully employed prior to such disability to qualify for a property tax credit;

(3) "Gross rent", amount paid by a claimant to a landlord for the rental, at arm's length, of a homestead during the calendar year, exclusive of charges for health and personal care services and food furnished as part of the rental agreement, whether or not expressly set out in the rental agreement. If the director of revenue determines that the landlord and tenant have not dealt at arm's length, and that the gross rent is excessive, then he shall determine the gross rent based upon a reasonable amount of rent. Gross rent shall be deemed to be paid only if actually paid prior to the date a return is filed. The director of revenue may prescribe regulations requiring a return of information by a landlord receiving rent, certifying for a calendar year the amount of gross rent received from a tenant claiming a property tax credit and shall, by regulation, provide a method for certification by the claimant of the amount of gross rent paid for any calendar year for which a claim is made. The regulations authorized by this subdivision may require a landlord

or a tenant or both to provide data relating to health and personal care services and to food. Neither a landlord nor a tenant may be required to provide data relating to utilities, furniture, home furnishings or appliances;

(4) "Homestead", the dwelling in Missouri owned or rented by the claimant and not to exceed five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. It may consist of part of a multidwelling or multipurpose building and part of the land upon which it is built. "Owned" includes a vendee in possession under a land contract and one or more tenants by the entireties, joint tenants, or tenants in common and includes a claimant actually in possession if he was the immediate former owner of record, if a lineal descendant is presently the owner of record, and if the claimant actually pays all taxes upon the property. It may include a mobile home;

(5) "Income", Missouri adjusted gross income as defined in section 143.121, RSMo, less two thousand dollars, **or in the case of a homestead owned and occupied, for the entire year, by the claimant, less four thousand dollars** as an exemption for the claimant's spouse residing at the same address, and increased, where necessary, to reflect the following:

(a) Social Security, railroad retirement, and veterans payments and benefits unless the claimant is a one hundred percent service-connected, disabled veteran or a spouse of a one hundred percent service-connected, disabled veteran. The one hundred percent service-connected disabled veteran shall not be required to list veterans payments and benefits;

(b) The total amount of all other public and private pensions and annuities;

(c) Public relief, public assistance, and unemployment benefits received in cash, other than benefits received under this chapter;

(d) No deduction being allowed for losses not incurred in a trade or business;

(e) Interest on the obligations of the United States, any state, or any of their subdivisions and instrumentalities;

(6) "Property taxes accrued", property taxes paid, exclusive of special assessments, penalties, interest, and charges for service levied on a claimant's homestead in any calendar year. Property taxes shall qualify for the credit only if actually paid prior to the date a return is filed. The director of revenue shall require a tax receipt or other proof of property tax payment. If a homestead is owned only partially by claimant, then "property taxes accrued" is that part of property taxes levied on the homestead which was actually paid by the claimant. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the director of revenue for collection. If a claimant owns a homestead part of the preceding calendar year and rents it or a different homestead for part of the same year, "property taxes accrued" means only taxes levied on the homestead both owned and occupied by the claimant, multiplied by the percentage of twelve months that such property was owned and occupied as the homestead of the claimant during the year. When a claimant owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of taxes allocable to those several properties occupied by the claimant as a homestead for the year. If a homestead is an integral part of a larger unit such as a farm, or multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For purposes of this subdivision "unit" refers to the parcel of property covered by a single tax statement of which the homestead is a part;

(7) "Rent constituting property taxes accrued", twenty percent of the gross rent paid by a claimant and spouse in the calendar year.

135.025. ACCRUED TAXES AND RENT CONSTITUTING TAXES TO BE TOTALED — MAXIMUM AMOUNT ALLOWABLE — ALLOCATION REGULATIONS, WHEN. — The property taxes accrued and rent constituting property taxes accrued on each return shall be totaled. This total, up to seven hundred fifty dollars **in rent constituting property taxes actually paid or eleven hundred dollars in actual property tax paid**, shall be used in determining the property tax credit. The director of revenue shall prescribe regulations providing for allocations where

part of a claimant's homestead is rented to another or used for nondwelling purposes or where a homestead is owned or rented or used as a dwelling for part of a year.

135.030. FORMULA FOR DETERMINING CREDITS — TABLE TO BE PREPARED BY DIRECTOR OF REVENUE — TAXPAYER NOT APPLYING FOR CREDIT TO BE NOTIFIED OF ELIGIBILITY.— 1. As used in this section:

(1) The term "maximum upper limit" shall, for each calendar year after December 31, 1997, but before calendar year 2008, be the sum of twenty-five thousand dollars. For [the] **all** calendar [year] **years** beginning on **or after** January 1, 2008, the maximum upper limit shall be the sum of twenty-seven thousand five hundred dollars. **In the case of a homestead owned and occupied for the entire year by the claimant, the maximum upper limit shall be the sum of thirty thousand dollars;**

(2) The term "minimum base" shall, for each calendar year after December 31, 1997, but before calendar year 2008, be the sum of thirteen thousand dollars. For [the] **all** calendar [year] **years** beginning **on or after** January 1, 2008, the minimum base shall be the sum of fourteen thousand three hundred dollars.

2. If the income on a return is equal to or less than the maximum upper limit for the calendar year for which the return is filed, the property tax credit shall be determined from a table of credits based upon the amount by which the total property tax described in section 135.025 exceeds the percent of income in the following list:

If the income on the return is:	The percent is:
Not over the minimum base	0 percent with credit not to exceed \$1,100 in actual property tax or rent equivalent paid up to \$750
Over the minimum base but not over the maximum upper limit	1/16 percent accumulative per \$300 from 0 percent to 4 percent.

The director of revenue shall prescribe a table based upon the preceding sentences. The property tax shall be in increments of twenty-five dollars and the income in increments of three hundred dollars. The credit shall be the amount rounded to the nearest whole dollar computed on the basis of the property tax and income at the midpoints of each increment. As used in this subsection, the term "accumulative" means an increase by continuous or repeated application of the percent to the income increment at each three hundred dollar level.

3. Notwithstanding subsection 4 of section 32.057, RSMo, the department of revenue or any duly authorized employee or agent shall determine whether any taxpayer filing a report or return with the department of revenue who has not applied for the credit allowed pursuant to section 135.020 may qualify for the credit, and shall notify any qualified claimant of the claimant's potential eligibility, where the department determines such potential eligibility exists.

137.016. REAL PROPERTY, SUBCLASSES OF, DEFINED — POLITICAL SUBDIVISION MAY ADJUST OPERATING LEVY TO RECOUP REVENUE, WHEN — RECLASSIFICATION TO APPLY, WHEN — PLACEMENT OF CERTAIN PROPERTY WITHIN PROPER SUBCLASS, FACTORS CONSIDERED.— 1. As used in section 4(b) of article X of the Missouri Constitution, the following terms mean:

(1) "Residential property", all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, and manufactured home parks, but residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, "transient housing" means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to section 144.020.1(6), RSMo;

(2) "Agricultural and horticultural property", all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding and management of livestock which shall include breeding, **showing**, and boarding of horses; to dairying, or to any other combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. Agricultural and horticultural property shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government. Agricultural and horticultural property shall further include land and improvements, exclusive of structures, on privately owned airports that qualify as reliever airports under the Nation Plan of Integrated Airports System, to receive federal airport improvement project funds through the Federal Aviation Administration. Real property classified as forest croplands shall not be agricultural or horticultural property so long as it is classified as forest croplands and shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution;

(3) "Utility, industrial, commercial, railroad and other real property", all real property used directly or indirectly, for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person or business entity owns more than five individual units. All other real property not included in the property listed in subclasses (1) and (2) of section 4(b) of article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term "utility, industrial, commercial, railroad and other real property".

2. Pursuant to article X of the state constitution, any taxing district may adjust its operating levy to recoup any loss of property tax revenue, except revenues from the surtax imposed pursuant to article X, section 6.2 of the constitution, as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units if such adjustment of the levy does not exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this section, loss in revenue shall include the difference between the revenue that would have been collected on such property under its classification prior to enactment of this section and the amount to be collected under its classification under this section. The county assessor of each county or city not within a county shall provide information to each taxing district within its boundaries regarding the difference in assessed valuation of such property as the result of such change in classification.

3. All reclassification of property as the result of changing the classification of structures intended to be used for residential living by human occupants which contain five or more dwelling units shall apply to assessments made after December 31, 1994.

4. Where real property is used or held for use for more than one purpose and such uses result in different classifications, the county assessor shall allocate to each classification the percentage of the true value in money of the property devoted to each use; except that, where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, as defined in this section.

5. All real property which is vacant, unused, or held for future use; which is used for a private club, a not-for-profit or other nonexempt lodge, club, business, trade, service organization, or similar entity; or for which a determination as to its classification cannot be made under the definitions set out in subsection 1 of this section, shall be classified according to its immediate most suitable economic use, which use shall be determined after consideration of:

- (1) Immediate prior use, if any, of such property;
- (2) Location of such property;

(3) Zoning classification of such property; except that, such zoning classification shall not be considered conclusive if, upon consideration of all factors, it is determined that such zoning classification does not reflect the immediate most suitable economic use of the property;

(4) Other legal restrictions on the use of such property;

(5) Availability of water, electricity, gas, sewers, street lighting, and other public services for such property;

(6) Size of such property;

(7) Access of such property to public thoroughfares; and

(8) Any other factors relevant to a determination of the immediate most suitable economic use of such property.

6. All lands classified as forest croplands shall not, for taxation purposes, be classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are prescribed in section 4(b) of article X of the Missouri Constitution and defined in this section, but shall be taxed in accordance with the laws enacted to implement section 7 of article X of the Missouri Constitution.

137.055. COUNTY COMMISSION TO FIX RATE OF TAX, WHEN, EXCEPTIONS — PUBLIC HEARING TO BE HELD, WHEN, NOTICE, EFFECT. — 1. After the assessor's book of each county, except in [the] **any city [of St. Louis] not within a county or any county with a charter form of government**, shall be corrected and adjusted according to law, but not later than September twentieth, of each year, the county governing body shall ascertain the sum necessary to be raised for county purposes, and fix the rate of taxes on the several subjects of taxation so as to raise the required sum, and the same to be entered in the proper columns in the tax book. **Any city not within a county and any county with a charter form of government shall set the tax rate by October first of each year for each calendar year after December 31, 2008.**

2. Prior to fixing the rate of taxes, as provided in this section, the county governing body shall hold a public hearing on the proposed rate of taxes **at which citizens shall be heard**. A notice stating the time and place for the hearing shall be published in at least one newspaper qualified under the laws of Missouri of general circulation in the county at least seven days prior to the date of the hearing. The notice shall include the aggregate assessed valuation by category of real, total personal and other tangible property in the county as entered in the tax book for the fiscal year for which the tax is to be levied, the aggregate assessed valuation by category of real, total personal and other tangible property in the county for the preceding taxable year, the required sums to be raised from the property tax for each purpose for which the county levies taxes as approved in the budget adopted under chapter 50, RSMo, the proposed rate of taxes which will produce substantially the same revenues as required by the budget, and the increase in tax revenue realized due to an increase in assessed value as a result of new construction and improvement, and the increase, both in dollar value and percentage, in tax revenue as a result of reassessment if the proposed tax rate is adopted. Failure of any taxpayer to appear at said hearing shall not prevent the taxpayer from pursuit of any other legal remedy otherwise available to the taxpayer. Nothing in this subsection absolves county governing bodies of responsibilities under section 137.073 nor to adjust tax rates in event changes in assessed valuation occur that would alter the tax rate calculations.

137.073. DEFINITIONS — REVISION OF PRIOR LEVY, WHEN, PROCEDURE — CALCULATION OF STATE AID FOR PUBLIC SCHOOLS, TAXING AUTHORITY'S DUTIES. — 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, or as excess home dock city or county fees as provided in subsection 4 of section 313.820, RSMo, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate may not exceed [the greater of the rate in effect in the 1984 tax year or] the most recent voter-approved rate. Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment

growth occurring within the political subdivision. The inflationary growth factor for any such subclass of real property or personal property shall be limited to the actual assessment growth in such subclass or class, exclusive of new construction and improvements, and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling for the particular subclass of real property or for personal property, in the aggregate, in [the] a prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate for the particular subclass of real property or for personal property, in the aggregate, after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive [for the three-year period preceding such determination] **had the corrected or finalized assessment been available at the time of the prior calculation.**

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115, the assessor shall certify the amount of new construction and improvements and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on [June] **February** first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state-assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established

pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be **adjusted as provided in this section and, so adjusted, shall be** the current tax rate ceiling. The increased tax rate ceiling as approved **shall be adjusted such that when applied to the current total assessed valuation of the political subdivision, excluding new construction and improvements since the date of the election approving such increase, the revenue derived from the adjusted tax rate ceiling is equal to the sum of: the amount of revenue which would have been derived by applying the voter approved increased tax rate ceiling to total assessed valuation of the political subdivision, as most recently certified by the city or county clerk on or before the date of the election in which such increase is approved, increased by the percentage increase in the consumer price index, as provided by law. Such adjusted tax rate ceiling** may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate. **If a ballot question presents a phased-in tax rate increase, upon voter approval, each tax rate increase shall be adjusted in the manner prescribed in this section to yield the sum of: the amount of revenue that would be derived by applying such voter approved increased rate to the total assessed valuation, as most recently certified by the city or county clerk on or before the date of the election in which such increase was approved, increased by the percentage increase in the consumer price index, as provided by law, from the date of the election to the time of such increase and, so adjusted, shall be the current tax rate ceiling.**

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may, **in a non-reassessment year**, increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval **in the manner provided under subdivision (4) of this subsection. Nothing in this section shall be construed as prohibiting a political subdivision from voluntarily levying a tax rate lower than that which is required under the provisions of this section or from seeking voter approval of a reduction to such political subdivision's tax rate ceiling.**

(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a year following general reassessment, if such governing body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution, or policy statement justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to any political subdivision which levies a tax rate lower than its tax rate ceiling solely due to a reduction required by law resulting from sales tax collections. The provisions of this subdivision shall not apply to any political subdivision which has received voter approval for an increase to its tax rate ceiling subsequent to setting its most recent tax rate.

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the

assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. The state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference. In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and

institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo, or otherwise contested. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. [A taxing authority, including but not limited to a township, county collector, or collector of taxes, responsible for determining and collecting the amount of residential real property tax levied in its jurisdiction, shall report such amount of tax collected by December thirty-first of each year such property is assessed to the state tax commission. The state tax commission shall compile the tax data by county or taxing jurisdiction and submit a report to the general assembly no later than January thirty-first of the following year.

11.] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

137.082. NEW CONSTRUCTION, ASSESSMENT OF UPON OCCUPANCY, HOW — PAYMENT OF TAXES, WHEN — COUNTY ASSESSOR, DUTIES — COUNTY OPTION — NATURAL DISASTERS, ASSESSMENT REDUCTION ALLOWED, EFFECT. — 1. Notwithstanding the provisions of sections 137.075 and 137.080 to the contrary, a building or other structure classified as residential property pursuant to section 137.016 newly constructed and occupied on any parcel of real

property shall be assessed and taxed on such assessed valuation as of the first day of the month following the date of occupancy for the proportionate part of the remaining year at the tax rates established for that year, in all taxing jurisdictions located in the county adopting this section as provided in subsection 8 of this section. Newly constructed residential property which has never been occupied shall not be assessed as improved real property until such occupancy or the first day of January of the second year following the year in which construction of the improvements was completed.

2. The assessor may consider a property residentially occupied upon personal verification or when any two of the following conditions have been met:

- (1) An occupancy permit has been issued for the property;
- (2) A deed transferring ownership from one party to another has been filed with the recorder of deeds' office subsequent to the date of the first permanent utility service;
- (3) A utility company providing service in the county has verified a transfer of service for property from one party to another;
- (4) The person or persons occupying the newly constructed property has registered a change of address with any local, state or federal governmental office or agency.

3. In implementing the provisions of this section, the assessor may use occupancy permits, building permits, warranty deeds, utility connection documents, including telephone connections, or other official documents as may be necessary to discover the existence of newly constructed properties. No utility company shall refuse to provide verification monthly to the assessor of a utility connection to a newly occupied single family building or structure.

4. In the event that the assessment under subsections 1 and 2 of this section is not completed until after the deadline for filing appeals in a given tax year, the owner of the newly constructed property who is aggrieved by the assessment of the property may appeal this assessment the following year to the county board of equalization in accordance with chapter 138, RSMo, and may pay any taxes under protest in accordance with section 139.031, RSMo; **provided however, that such payment under protest shall not be required as a condition of appealing to the county board of equalization.** The collector shall impound such protested taxes and shall not disburse such taxes until resolution of the appeal.

5. The increase in assessed valuation resulting from the implementation of the provisions of this section shall be considered new construction and improvements under the provisions of this chapter.

6. In counties which adopt the provisions of subsections 1 to 7 of this section, an amount not to exceed ten percent of all ad valorem property tax collections on newly constructed and occupied residential property allocable to each taxing authority within counties of the first classification having a population of nine hundred thousand or more, one-tenth of one percent of all ad valorem property tax collections allocable to each taxing authority within all other counties of the first classification and one-fifth of one percent of all ad valorem property tax collections allocable to each taxing authority within counties of the second, third and fourth classifications and any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants, in addition to the amount prescribed by section 137.720 shall be deposited into the assessment fund of the county for collection costs.

7. For purposes of figuring the tax due on such newly constructed residential property, the assessor or the board of equalization shall place the full amount of the assessed valuation on the tax book upon the first day of the month following occupancy. Such assessed valuation shall be taxed for each month of the year following such date at its new assessed valuation, and for each month of the year preceding such date at its previous valuation. The percentage derived from dividing the number of months at which the property is taxed at its new valuation by twelve shall be applied to the total assessed valuation of the new construction and improvements, and such product shall be included in the next year's base for the purposes of figuring the next year's

tax levy rollback. The untaxed percentage shall be considered as new construction and improvements in the following year and shall be exempt from the rollback provisions.

8. Subsections 1 to 7 of this section shall be effective in those counties including any city not within a county in which the governing body of such county elects to adopt a proposal to implement the provisions of subsections 1 to 7 of this section. Such subsections shall become effective in such county on the first day of January of the year following such election.

9. In any county which adopts the provisions of subsections 1 to 7 of this section prior to the first day of June in any year pursuant to subsection 8 of this section, the assessor of such county shall, upon application of the property owner, remove on a pro rata basis from the tax book for the current year any residential real property improvements destroyed by a natural disaster if such property is unoccupied and uninhabitable due to such destruction. On or after the first day of [June] **July**, the board of equalization shall perform such duties. Any person claiming such destroyed property shall provide a list of such destroyed property to the county assessor. The assessor shall have available a supply of appropriate forms on which the claim shall be made. The assessor may verify all such destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster shall, in addition to any other penalties provided by law, be assessed double the value of any property fraudulently listed. The list shall be filed by the assessor, after he has provided a copy of the list to the county collector and the board of equalization, in the office of the county clerk who, after entering the filing thereof, shall preserve and safely keep them. If the assessor, subsequent to such destruction, considers such property occupied as provided in subsection 2 of this section, the assessor shall consider such property new construction and improvements and shall assess such property accordingly as provided in subsection 1 of this section. For the purposes of this section, the term "natural disaster" means any disaster due to natural causes such as tornado, fire, flood, or earthquake.

10. Any political subdivision may recover the loss of revenue caused by subsection 9 of this section by adjusting the rate of taxation, to the extent previously authorized by the voters of such political subdivision, for the tax year immediately following the year of such destruction in an amount not to exceed the loss of revenue caused by this section.

137.092. RENTAL OR LEASING FACILITIES TO SUBMIT LESSEE LISTS. — 1. As used in this section, the following terms mean:

(1) "Personal property", any house trailer, manufactured home, [boat, vessel, floating home, floating structure,] airplane, or aircraft;

(2) "Rental or leasing facility", any manufactured home park, manufactured home storage facility, [marina or comparable facility providing dockage or storage space,] or any hangar or similar aircraft storage facility.

2. For all calendar years beginning on or after January 1, 2008, every owner of a rental or leasing facility shall, by January thirtieth of each year, furnish the assessor of the county in which the rental or leasing facility is located a list of the [personal property] **lessees** located at the rental or leasing facility on January first of each year. The list shall include:

(1) The name of the [owner of the personal property] **lessee**;

(2) The [owner's] **lessee's** address and county of residency[, if known;

(3) A description of the personal property located at the facility if the owner of the rental or leasing facility knows of or has been made aware of the nature of such personal property.

3. If the owner of a rental or leasing facility fails to submit the list by January thirtieth of each year, or fails to include all the information required by this section on the list, the valuation of the personal property that is not listed as required by this section and that is located at the rental or leasing facility shall be assessed to the owner of the rental or leasing facility.

4. The assessor of the county in which the rental or leasing facility is located shall also collect a penalty as additional tax on the assessed valuation of such personal property that is not listed as required by this section. The penalty shall be collected as follows:

Assessed valuation	Penalty
\$0 to \$1,000	\$10.00
\$1,001 to \$2,000	\$20.00
\$2,001 to \$3,000	\$30.00
\$3,001 to \$4,000	\$40.00
\$4,001 to \$5,000	\$50.00
\$5,001 to \$6,000	\$60.00
\$6,001 to \$7,000	\$70.00
\$7,001 to \$8,000	\$80.00
\$8,001 to \$9,000	\$90.00
\$9,001 and above	\$100.00

5. The funds derived from the penalty collected under this section shall be disbursed proportionately to any taxing entity authorized to levy a tax on such personal property. No rental or leasing facility owner penalized under this section shall be subject to any penalty authorized in section 137.280 or 137.345 for the same personal property in the same tax year].

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — APPORTIONMENT PERCENTAGE SET, HOW APPLIED, NOTICE TO OWNERS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

- (1) "Department", the department of revenue;
- (2) "Director", the director of revenue;
- (3) "Disabled", as such term is defined in section 135.010, RSMo;
- (4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to this section; or

(a) In the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to this section did not exceed the maximum upper limit; or

(b) In the case of joint ownership by unmarried persons or ownership by tenancy in common by two or more unmarried persons, such owners shall be considered an eligible owner if each person with an ownership interest individually satisfies the eligibility requirements for an individual eligible owner under this section and the combined income of all individuals with an interest in the property is equal to or less than the maximum upper limit in the year prior to completing an application under this section. If any individual with an ownership interest in the property fails to satisfy the eligibility requirements of an individual eligible owner or if the combined income of all individuals with interest in the property exceeds the maximum upper limit, then all individuals with an ownership interest in such property shall be deemed ineligible owners regardless of such other individual's ability to individually meet the eligibility requirements; or

(c) In the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such

homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions (7) and (8) of this subsection;

No individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person filed a valid claim for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value, except where an eligible owner of the property has made such improvements to accommodate a disabled person;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection 10 of this section. For applications filed in 2005 or 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005, and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead exemption credit more than once during such period. For applications filed after 2006, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application. **For applications filed between December 31, 2008, and December 31, 2011, the homestead exemption limit shall be based on the increase in tax liability from the base year to the year prior to the application year. For applications filed on or after January 1, 2012, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application. For purposes of this subdivision, the term "base year" means the year prior to the first year in which the eligible owner's application was approved, or 2006, whichever is later;**

(7) "Income", federal adjusted gross income, and in the case of ownership of the homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. If application is made in 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- (1) To the applicant's age;
- (2) That the applicant's prior year income was less than the maximum upper limit;
- (3) To the address of the homestead property; and
- (4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value. The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. If application is made in 2005, the assessor, upon request for an application, shall:

- (1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;
- (2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks for inclusion on the form;
- (3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and
- (4) Sign the application, certifying the accuracy of the assessor's entries.

6. If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed between April first and October fifteenth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- (1) To the applicant's age;
- (2) That the applicant's prior year income was less than the maximum upper limit;
- (3) To the address of the homestead property;
- (4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value; and
- (5) The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

7. Each applicant shall send the application to the department by [September thirtieth] **October fifteenth** of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

8. If application is made in 2005, upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth,

the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

9. If application is made after 2005, upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

11. For applications made in 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

12. After setting the homestead exemption limit for applications made in 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation and assessment fund allocation to the county collector's funds of each county or the treasurer ex officio collector's fund in counties with a township form of government where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector or the treasurer ex officio

collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or the treasurer ex officio collector's fund or may be sent by mail to the collector of a county, or the treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued. In counties with a township form of government, the county clerk shall provide the treasurer ex officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.

13. If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year] **determine the apportionment percentage by equally apportioning the appropriation among all eligible applicants on a percentage basis.** If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

14. After [setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and] **determining the apportionment percentage, the director shall** calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more

particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

16. In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to January first of the year in which the credit would otherwise be applied, the credit shall be void and any corresponding moneys, pursuant to subsection 12 of this section, shall lapse to the state to be credited to the general revenue fund. In the event the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys, under subsection 11 of this section, shall lapse to the state to be credited to the general revenue fund.

17. This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

18. In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and [possessor] **possessory** interests in real property at the percent of its true value in money set in subsection 5 of this section. **The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year.** The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment

maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this [paragraph] **subdivision**, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percentages of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

- (1) For real property in subclass (1), nineteen percent;
- (2) For real property in subclass (2), twelve percent; and
- (3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection

11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

137.122. DEPRECIABLE TANGIBLE PERSONAL PROPERTY — DEFINITIONS — STANDARDIZED SCHEDULE TO BE USED — VALUATION TABLE — EXCEPTIONS. — 1. As used in this section, the following terms mean:

(1) "Business personal property", tangible personal property which is used in a trade or business or used for production of income and which has a determinable life of longer than one year except that supplies used by a business shall also be considered business personal property, but shall not include livestock, farm machinery, grain and other agricultural crops in an unmanufactured condition, property subject to the motor vehicle registration provisions of chapter 301, RSMo, property assessed under section 137.078, the property of rural electric

cooperatives under chapter 394, RSMo, or property assessed by the state tax commission under chapters 151, 153, and 155, RSMo, section 137.022, and sections 137.1000 to 137.1030;

(2) "Class life", the class life of property as set out in the federal Modified Accelerated Cost Recovery System life tables or their successors under the Internal Revenue Code as amended;

(3) "Economic or functional obsolescence", a loss in value of personal property above and beyond physical deterioration and age of the property. Such loss may be the result of economic or functional obsolescence or both;

(4) "Original cost", the price the current owner, the taxpayer, paid for the item without freight, installation, or sales or use tax. In the case of acquisition of items of personal property as part of an acquisition of an entity, the original cost shall be the historical cost of those assets remaining in place and in use and the placed in service date shall be the date of acquisition by the entity being acquired;

(5) "Placed in service", property is placed in service when it is ready and available for a specific use, whether in a business activity, an income-producing activity, a tax-exempt activity, or a personal activity. Even if the property is not being used, the property is in service when it is ready and available for its specific use;

(6) "Recovery period", the period over which the original cost of depreciable tangible personal property shall be depreciated for property tax purposes and shall be the same as the recovery period allowed for such property under the Internal Revenue Code.

2. To establish uniformity in the assessment of depreciable tangible personal property, each assessor shall use the standardized schedule of depreciation in this section to determine the assessed valuation of depreciable tangible personal property for the purpose of estimating the value of such property subject to taxation under this chapter.

3. For purposes of this section, and to estimate the value of depreciable tangible personal property for mass appraisal purposes, each assessor shall value depreciable tangible personal property by applying the class life and recovery period to the original cost of the property according to the following depreciation schedule. The percentage shown for the first year shall be the percentage of the original cost used for January first of the year following the year of acquisition of the property, and the percentage shown for each succeeding year shall be the percentage of the original cost used for January first of the respective succeeding year as follows:

Year	Recovery Period in Years					
	3	5	7	10	15	20
1	75.00	85.00	89.29	92.50	95.00	96.25
2	37.50	59.50	70.16	78.62	85.50	89.03
3	12.50	41.65	55.13	66.83	76.95	82.35
4	5.00	24.99	42.88	56.81	69.25	76.18
5		10.00	30.63	48.07	62.32	70.46
6			18.38	39.33	56.09	65.18
7			10.00	30.59	50.19	60.29
8				21.85	44.29	55.77
9				15.00	38.38	51.31
10					32.48	46.85
11					26.57	42.38
12					20.67	37.92
13					15.00	33.46
14						29.00
15						24.54
16						20.08
17						20.00

Depreciable tangible personal property in all recovery periods shall continue in subsequent years to have the depreciation factor last listed in the appropriate column so long as it is owned or held by the taxpayer. The state tax commission shall study and analyze the values established by this method of assessment and in every odd-numbered year make recommendations to the joint committee on tax policy pertaining to any changes in this methodology, if any, that are warranted.

4. Such estimate of value determined under this section shall be presumed to be correct for the purpose of determining the true value in money of the depreciable tangible personal property, but such estimation may be disproved by substantial and persuasive evidence of the true value in money under any method determined by the state tax commission to be correct, including, but not limited to, an appraisal of the tangible personal property specifically utilizing generally accepted appraisal techniques, and contained in a narrative appraisal report in accordance with the Uniform Standards of Professional Appraisal Practice or by proof of economic or functional obsolescence or evidence of excessive physical deterioration. For purposes of appeal of the provisions of this section, the salvage or scrap value of depreciable tangible personal property may only be considered if the property is not in use as of the assessment date.

5. This section shall not apply to business personal property placed in service before January 2, 2006. **Nothing in this section shall create a presumption as to the proper method of determining the assessed valuation of business personal property placed in service before January 2, 2006.**

6. The provisions of this section are not intended to modify the definition of tangible personal property as defined in section 137.010.

137.180. VALUATION INCREASED — ASSESSOR TO NOTIFY OWNER — APPEALS TO COUNTY BOARD OF EQUALIZATION — NOTICE TO OWNERS REQUIRED, WHEN, CONTENTS.

— 1. Whenever any assessor shall increase the valuation of any real property he shall forthwith notify the record owner of such increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state.

2. **Effective January 1, 2009, for all counties with a charter form of government, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of such increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.**

3. **Effective January 1, 2011, for all counties not subject to the provisions of subsection 2 of this section or subsection 2 of section 137.355, whenever any assessor shall increase the valuation of any real property, he or she shall forthwith notify the record owner on or before June fifteenth of such increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase, either in person, or by mail directed to the last known address; every such increase in assessed valuation made by the assessor shall be subject to review by the county board of equalization whereat the landowner shall be entitled to be heard, and the notice to the landowner shall so state. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.**

4. The notice of projected tax liability, required under subsections 2 and 3 of this section, from the county shall include:

- (1) Record owner's name, address, and the parcel number of the property;
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;
- (7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and
- (8) The total projected property tax liability of the taxpayer.

137.243. PROJECTED TAX LIABILITY, ASSESSOR TO PROVIDE CLERK WITH ASSESSMENT BOOK — ABSTRACT REQUIRED — POLITICAL SUBDIVISIONS TO INFORMALLY PROJECT A NONBINDING TAX LEVY, PROCEDURE. — 1. To determine the "projected tax liability" required by subsections 2 and 3 of section 137.180, subsection 2 of section 137.355, and subsection 2 of section 137.490, the assessor, on or before March first of each tax year, shall provide the clerk with the assessment book which for this purpose shall contain the real estate values for that year, the prior year's state assessed values, and the prior year's personal property values. On or before March fifteenth, the clerk shall make out an abstract of the assessment book showing the aggregate amounts of different kinds of real, personal, and other tangible property and the valuations of each for each political subdivision in the county, or in the city for any city not within a county, entitled to levy ad valorem taxes on property except for municipalities maintaining their own tax or assessment books. The governing body of each political subdivision or a person designated by the governing body shall use such information to informally project a nonbinding tax levy for that year and return such projected tax levy to the clerk no later than April eighth. The clerk shall forward such information to the collector who shall then calculate and, no later than April thirtieth, provide to the assessor the projected tax liability for each real estate parcel for which the assessor intends to mail a notice of increase pursuant to sections 137.180, 137.355, and 137.490.

2. Political subdivisions located at least partially within two or more counties, which are subject to divergent time requirements, shall comply with all requirements applicable to each such county and may utilize the most recent available information to satisfy such requirements.

3. Failure by an assessor to timely provide the assessment book or notice of increased assessed value, as provided in this section, may result in the state tax commission withholding all or a part of the moneys provided under section 137.720 and all state per parcel reimbursement funds which would otherwise be made available to such assessor.

4. Failure by a political subdivision to provide the clerk with a projected tax levy in the time prescribed under this section shall result in a twenty percent reduction in such political subdivision's tax rate for the tax year, unless such failure is a direct result of a delinquency in the provision of, or failure to provide, information required by this section by the assessor or the clerk. If a political subdivision fails to provide the projected tax rate as provided in this section, the clerk shall notify the state auditor who shall, within seven days of receiving such notice, estimate a non-binding tax levy for such political subdivision and return such to the clerk. The clerk shall notify the state auditor of any applicable reduction to a political subdivision's tax rate.

5. Any taxing district wholly within a county with a township form of government may, through a request submitted by the county clerk, request that the state auditor's office estimate a nonbinding projected tax rate based on the information provided by the county clerk. The auditor's office shall return the projected tax rate to the county clerk no later than April eighth.

6. The clerk shall deliver the abstract of the assessment book to each taxing district with a notice stating that their projected tax rates be returned to the clerk by April eighth.

137.245. ASSESSOR TO PREPARE AND RETURN ASSESSOR'S BOOK, VERIFICATION — CLERK TO ABSTRACT — FAILURE, A MISDEMEANOR — CLERK TO FORWARD COPY OF VALUATIONS, TO WHOM, WHEN. — 1. The assessor[, except in St. Louis City,] shall make out and return to the county governing body, on or before the [thirty-first] **first** day of [May] **July** in every year, the assessor's book, verified by an affidavit annexed thereto, in the following words:

"..... being duly sworn, makes oath and says that such person has made diligent efforts to ascertain all the taxable property being or situate, on the first day of January last past, in the county of which such person is assessor; that, so far as such person has been able to ascertain the same, it is correctly set forth in the foregoing book, in the manner and the value thereof stated therein, according to the mode required by law".

2. The clerk of the county governing body shall immediately make out an abstract of the assessment book, showing aggregate footings of the different columns, so as to set forth the aggregate amounts of the different kinds of real and tangible personal property and the valuation thereof, and forward the abstract to the state tax commission. Failure of the clerk to make out and forward the abstract to the state tax commission on or before the twentieth day of [June] **July** is a misdemeanor.

3. The clerk of the county governing body in all counties, and the assessor in St. Louis City, shall make out an abstract of the assessment book showing the aggregate amounts of different kinds of real, personal and other tangible property and the valuations of each for each political subdivision in the county entitled to levy ad valorem taxes on property except for municipalities maintaining their own tax or assessment books. The clerk of each county, and the assessor in St. Louis City, shall forward a copy of the aggregate valuation listed in the tax book for each political subdivision, except counties and municipalities maintaining their own tax or assessment books, to the governing body of the subdivision by the [first] **twentieth** day of July of each year. In any county which contains a city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, the clerk of the county shall provide the final revised assessed valuation listed in the tax book for each school district within the county to each such district on or before the fifteenth day of August of each year. The clerk of any county of the first classification with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants shall forward a copy of the aggregate valuation listed in the tax book for school districts within the county to each such district by the fifteenth day of [June] **July** of each year.

137.275. APPEALS TO COUNTY BOARD OF EQUALIZATION — LODGED WHERE. — Every person who thinks himself aggrieved by the assessment of his property may appeal to the county board of equalization, in person, by attorney or agent, or in writing. **Such appeals shall be lodged with the county board of equalization on or before the second Monday in July.**

137.335. BLANKS FOR ASSESSMENT TO BE DESIGNED BY STATE TAX COMMISSION — TIME OF MAKING ASSESSMENT. — The state tax commission shall design the necessary assessment blanks, which shall contain a classification of all tangible personal property, and the blanks shall be furnished to the county assessor sixty days before January first of each year.

After receiving the form of the assessment blanks, the assessor or his deputies shall, between the first day of January and the [fifteenth] **first** day of [May] **July** of each year, [unless the time be extended for good cause shown by order of the county commission for a period expiring not later than May thirty-first,] make and complete a list of all real and tangible personal property taxable by the county and assess the property at its true value in money.

137.355. NOTICE OF INCREASED ASSESSMENT OF LISTED PROPERTY — NOTICE TO OWNERS, WHEN, CONTENTS. — 1. If an assessor increases the valuation of any tangible personal property as estimated in the itemized list furnished to the assessor, and if an assessor increases the valuation of any real property, he shall forthwith notify the record owner of the increase either in person or by mail directed to the last known address, and if the address of the owner is unknown notice shall be given by publication in two newspapers published in the county.

2. Effective January 1, 2011, if an assessor increases the valuation of any real property, the assessor, on or before June fifteenth, shall notify the record owner of the increase and, in a year of general reassessment, the county shall notify the record owner of the projected tax liability likely to result from such an increase either in person or by mail directed to the last known address, and, if the address of the owner is unknown, notice shall be given by publication in two newspapers published in the county. Notice of the projected tax liability from the county shall accompany the notice of increased valuation from the assessor.

3. The notice of projected tax liability, required under subsection 2 of this section, from the county shall include:

- (1) Record owner's name, address, and the parcel number of the property;
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;
- (7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and
- (8) The total projected property tax liability of the taxpayer.

137.375. ASSESSOR TO DELIVER BOOK, WHEN — AFFIDAVIT — DUTY OF COUNTY CLERK — PENALTY FOR FAILURE. — 1. The assessor shall make out and return to the county commission, on or before the [fifteenth] **first** day of [May] **July** in every year, [unless such time be extended as provided in section 137.335,] the assessor's book, verified by his affidavit annexed thereto, in the following words:

..... being duly sworn makes oath and says that he has made diligent efforts to ascertain all the taxable property being or situate on the first day of January last past, in the county of which he is assessor; that, so far as he has been able to ascertain the same, it is correctly set forth in the foregoing book, in the manner and the value thereof stated therein, according to the mode required by law.

2. The clerk of the county commission shall immediately make out an abstract of the assessment book, showing aggregate footings of the different columns, so as to set forth the

aggregate amounts of the different kinds of real and tangible personal property and the valuation thereof, and forward the abstract to the state tax commission.

3. Upon failure to make out and forward the abstract to the state tax commission on or before the [tenth] **twentieth** day of [June] **July** or within the additional time allowed by the county commission, the clerk shall upon conviction be deemed guilty of a misdemeanor.

137.390. COUNTY COMMISSION TO DETERMINE TAX RATE. — After the assessor's book shall be corrected and adjusted according to law, but not later than September twentieth of each year, **or in the case of any city not within a county or counties with a charter form of government, not later than October first**, the county commission shall ascertain the sum necessary to be raised for county purposes, and fix the rate of taxes on the several subjects of taxation so as to raise the required sum, and the same shall be entered in proper columns in the tax book.

137.490. DATES OF BEGINNING AND COMPLETING ASSESSMENT — ASSESSMENT MUST BE UNIFORM — NOTICE TO OWNERS, WHEN, CONTENTS. — **1.** The assessor, or his deputies under his direction, shall assess all the taxable real property within the city and all tangible personal property taxable by the city under the laws of this state in the manner provided in sections 137.485 to 137.550 and as otherwise provided by law, and for that purpose the assessor may divide and assign the work or any of it among them. They shall commence their assessment on the first day of January in each year and complete the assessment, and the deputies make their final reports thereof to the assessor, on or before the first day of [April] **July** next following. The assessor shall see that the assessment is made uniform and equal throughout the city. If the assessor proposes to increase any assessment of real property, he shall give notice of the fact to the person owning the property affected, his agent or representative, by personal notice, or by mail directed to the last known address.

2. Effective January 1, 2009, the assessor, or his or her deputies under his or her direction, shall commence their assessment on the first day of January in each year and complete the assessment, and the deputies make their final reports thereof to the assessor, on or before the first day of March next following. The assessor shall see that the assessment is made uniform and equal throughout the city. If the assessor proposes to increase any assessment of real property, the assessor shall, on or before the fifteenth day of June, give notice of the fact and, in a year of general reassessment, the city shall provide notice of the projected tax liability likely to result from such an increase to the person owning the property affected, his or her agent or representative, by personal notice, or by mail directed to the last known address. Notice of the projected tax liability from the city shall accompany the notice of increased valuation from the assessor.

3. The notice of projected tax liability, required under subsection 2 of this section, from the city shall include:

- (1) Record owner's name, address, and the parcel number of the property;**
- (2) A list of all political subdivisions levying a tax upon the property of the record owner;**
- (3) The projected tax rate for each political subdivision levying a tax upon the property of the record owner, and the purpose for each levy of such political subdivisions;**
- (4) The previous year's tax rates for each individual tax levy imposed by each political subdivision levying a tax upon the property of the record owner;**
- (5) The tax rate ceiling for each levy imposed by each political subdivision levying a tax upon the property of the record owner;**
- (6) The contact information for each political subdivision levying a tax upon the property of the record owner;**

(7) A statement identifying any projected tax rates for political subdivisions levying a tax upon the property of the record owner, which were not calculated and provided by the political subdivision levying the tax; and

(8) The total projected property tax liability of the taxpayer.

137.510. ASSESSOR'S BOOKS — METHOD OF PREPARATION — DATE TO BE COMPLETED.

— The assessor shall make up the assessment plat books or records in convenient alphabetical or numerical order from the reports made by the deputy assessors, the lists, statements or returns made of real or tangible personal property, his own view, or the best information he can otherwise obtain, and complete said assessment plat books or records on or before [the first Monday in May] **July first** of each year.

137.515. ASSESSOR TO MAKE ABSTRACT OF BOOKS, WHEN — COPIES CERTIFIED. —

After the assessment plat books or records have been corrected, the assessor shall make an abstract thereof showing the amount of the several kinds of property assessed and specifying the amount of value of all taxable property within the city, and certify thereon that the same is a true and correct abstract of all such property in the city so far as he has been able to ascertain. One copy of the abstract, verified by his oath, shall be delivered on or before the twentieth day of [June] **July** to the mayor, and another to the state tax commission.

137.720. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEDUCTED FOR DEPOSIT IN COUNTY ASSESSMENT FUND — ADDITIONAL DEDUCTIONS (ST. LOUIS CITY AND ALL COUNTIES) — EXPIRATION DATE. — 1. A percentage of all ad valorem property tax collections allocable to each taxing authority within the county and the county shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750. The percentage shall be one-half of one percent for all counties of the first and second classification and cities not within a county and one percent for counties of the third and fourth classification.

2. **Prior to July 1, 2009**, for counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, and for counties of the second, third, and fourth classification, an additional one-quarter of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred thousand dollars in any year for any county of the first classification and any county with a charter form of government and fifty thousand dollars in any year for any county of the second, third, or fourth classification.

3. **Effective July 1, 2009**, for counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, and for counties of the second, third, and fourth classification, an additional one-half of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred twenty-five thousand dollars in any year for any county of the first classification and any county with a charter form of government and seventy-five thousand dollars in any year for any county of the second, third, or fourth classification.

4. The county shall bill any taxing authority collecting its own taxes. The county may also provide additional moneys for the fund. To be eligible for state cost-share funds provided pursuant to section 137.750, every county shall provide from the county general revenue fund an amount equal to an average of the three most recent years of the amount provided from general revenue to the assessment fund; provided, however, that capital expenditures and equipment expenses identified in a memorandum of understanding signed by the county's governing body and the county assessor prior to transfer of county general revenue funds to the assessment fund shall be deducted from a year's contribution before computing the three-year average, except that a lesser amount shall be acceptable if unanimously agreed upon by the county assessor, the county governing body, and the state tax commission. The county shall deposit the county general revenue funds in the assessment fund as agreed to in its original or amended maintenance plan, state reimbursement funds shall be withheld until the amount due is properly deposited in such fund.

[4. Four years following the effective date, the state tax commission shall conduct a study to determine the impact of increased fees on assessed valuation.]

5. **For all years beginning on or after January 1, 2010**, any [increase to the portion of] property tax collections deposited into the county assessment funds provided for in subsection 2 of this section shall be disallowed in any year in which the state tax commission [certifies an equivalent sales ratio for the county of less than or equal to thirty-one and two-thirds percent pursuant to the provisions of section 138.395, RSMo] **notifies the county that state assessment reimbursement funds have been withheld from the county for three consecutive quarters due to noncompliance by the assessor or county commission with the county's assessment maintenance plan.**

6. The provisions of subsections 2[, 4,] **3**, and 5 of this section shall expire on December 31, [2009] **2015**.

137.721. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEPOSITED IN COUNTY ASSESSMENT FUND (CERTAIN FIRST CLASS COUNTIES). — Notwithstanding the provisions of section 137.720, in all counties which become counties of the first classification after September 1, [1998] **1996**, one percent of all ad valorem taxes allocable to the county and each taxing authority within the county shall continue to be deducted from taxes collected on the first five hundred million dollars of assessed valuation, and one-half percent collected on the remainder, and deposited in the assessment fund. The one-percent fee shall be assigned among the political subdivisions by the assessor, who shall determine the percentage of total valuation in the county divided into five hundred million dollars. The collector shall retain one percent of that percentage of each political subdivision's property taxes, and one-half percent of the remainder, for the assessment fund.

137.1018. STATEWIDE AVERAGE RATE OF PROPERTY TAXES LEVIED, ASCERTAINED BY THE COMMISSION — REPORT SUBMITTED — TAXES COLLECTED, HOW DETERMINED — TAX CREDIT AUTHORIZED — SUNSET PROVISION. — 1. The commission shall ascertain the statewide average rate of property taxes levied the preceding year, based upon the total assessed valuation of the railroad and street railway companies and the total property taxes levied upon the railroad and street railway companies. It shall determine total property taxes levied from reports prescribed by the commission from the railroad and street railway companies. Total taxes levied shall not include revenues from the surtax on subclass three real property.

2. The commission shall report its determination of average property tax rate for the preceding year, together with the taxable distributable assessed valuation of each freight line company for the current year to the director no later than October first of each year.

3. Taxes on property of such freight line companies shall be collected at the state level by the director on behalf of the counties and other local public taxing entities and shall be distributed in accordance with sections 137.1021 and 137.1024. The director shall tax such property based

upon the distributable assessed valuation attributable to Missouri of each freight line company, using the average tax rate for the preceding year of the railroad and street railway companies certified by the commission. Such tax shall be due and payable on or before December thirty-first of the year levied and, if it becomes delinquent, shall be subject to a penalty equal to that specified in section 140.100, RSMo.

4. (1) As used in this subsection, the following terms mean:

(a) "Eligible expenses", expenses incurred in this state to manufacture, maintain, or improve a freight line company's qualified rolling stock;

(b) "Qualified rolling stock", any freight, stock, refrigerator, or other railcars subject to the tax levied under this section.

(2) For all taxable years beginning on or after January 1, 2009, a freight line company shall, subject to appropriation, be allowed a credit against the tax levied under this section for the applicable tax year. The tax credit amount shall be equal to the amount of eligible expenses incurred during the calendar year immediately preceding the tax year for which the credit under this section is claimed. The amount of the tax credit issued shall not exceed the freight line company's liability for the tax levied under this section for the tax year for which the credit is claimed.

(3) A freight line company may apply for the credit by submitting to the commission an application in the form prescribed by the state tax commission.

(4) Subject to appropriation, the state shall reimburse, on an annual basis, any political subdivision of this state for any decrease in revenue due to the provisions of this subsection.

5. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

138.010. MEMBERSHIP OF COUNTY BOARD OF EQUALIZATION — ANNUAL MEETINGS.

— 1. Except as otherwise provided by law, in every county in this state there shall be a county board of equalization consisting of the commissioners of the county commission, the county assessor as a nonvoting member, the county surveyor, and the county clerk who shall be secretary of the board without a vote. The county commissioners shall also appoint two additional members to the board who shall be citizens of the county, but not officers of the county and, for such additional members appointed after August 28, 2007, not related to any member of the county board of equalization within the third degree of consanguinity, who shall have some level of experience as determined by the county commission as a real estate broker, real estate appraiser, home builder, property developer, lending officer, or investor in real estate before such member's appointment to the board. The assessor or a member of the assessor's staff shall be present at all board of equalization hearings, and shall have the right to present evidence pertaining to any assessment matter before the board.

2. Except as provided in subsection 3 of this section, this board shall meet at the office of the county clerk on the [second] **third** Monday of July of each year.

3. Upon a finding by the board that it is necessary in order to fairly hear all cases arising from a general reassessment, the board may begin meeting after [May thirty-first] **July first** in any applicable year to timely consider any appeal or complaint resulting from an evaluation made during a general reassessment of all taxable real property and possessory interests in the county.

138.050. RULES TO BE OBSERVED. — The following rules shall be observed by county boards of equalization:

(1) They shall raise the valuation of all tracts or parcels of land and all tangible personal property as in their opinion have been returned below their real value; but, after the board has raised the valuation of such property, it shall give notice of the fact, specifying the property and the amount raised, to the persons owning or controlling the same, by personal notice, or through the mail if address is known, or if address is unknown, by notice in one issue of any newspaper published within the county at least once a week, and that said board shall meet on the [second] **third** Monday in [August] **July**, to hear reasons, if any be given, why such increase should not be made; the board shall meet on the [second] **third** Monday in [August] **July** in each year to hear any person relating to any such increase in valuation. **In any county with a charter form of government or any city not within a county, the board shall complete all business by the fourth Saturday in August. Any county of the first, second, third, or fourth classification shall complete all business by July thirty-first;**

(2) They shall reduce the valuation of such tracts or parcels of land or any tangible personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and tangible personal property of the county.

138.090. MEETINGS OF BOARD (FIRST CLASS COUNTIES). — 1. Except as provided in subsection 2 of this section, the county board of equalization in first class counties shall meet on the first Monday in [June] **July** of each year.

2. Upon a finding by the board that it is necessary in order to fairly hear all cases arising from a general reassessment, the board may begin meeting after [May thirty-first] **July first** in any applicable year to timely consider any appeal or complaint resulting from an evaluation made during a general reassessment of all taxable real property and possessory interests in the county. There shall be no presumption that the assessor's valuation is correct.

138.100. RULES — HEARINGS (COUNTIES OF THE FIRST CLASSIFICATION). — 1. The following rules shall be observed by such county boards of equalization:

(1) They shall raise the valuation of all tracts or parcels of land and all tangible personal property as in their opinion have been returned below their real value; but, after the board has raised the valuation of such property, notice shall be given that said valuation of such property has been increased and a hearing shall be granted; such notice shall be in writing and shall be directed to the owner of the property or the person controlling the same, at his last address as shown by the records in the assessor's office, and shall describe the property and the value thereof as increased; such notice may be by personal service or by mail and if the address of such person or persons is unknown, notice may be given by publication in two newspapers published within the county; such notice shall be served, mailed or published at least five days prior to the date on which said hearing shall be held at which objections, if any, may be made against said increased assessment;

(2) They shall reduce the valuation of such tracts or parcels of land or of any tangible personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and tangible personal property of the county.

2. Such hearings shall end on the [last Saturday] **thirty-first day** of July of each year, **except in any city not within a county or any county with a charter form of government, in which such hearings shall end by the fourth Saturday in August;** provided, that the estimated true value of personal property as shown on any itemized personal property return shall not be conclusive on the assessor or prevent the assessor from increasing such valuation. Provided further that said board of equalization may meet thereafter at least once a month for the purpose of hearing allegations of erroneous assessments, double assessments and clerical errors, and upon satisfactory proof thereof shall correct such errors and certify the same to the county clerk and county collector.

3. The board of equalization in all counties with a charter form of government shall provide the taxpayer with written findings of fact and a written basis for the board's decision regarding any parcel of real property which is the subject of a hearing before any board of equalization.

4. The provisions of subsection 3 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

138.110. COMPLAINTS TO BE FILED WITH STATE TAX COMMISSION, WHEN (FIRST CLASS COUNTIES). — Complaints as to rulings of the county board of equalization in such counties shall be filed according to law with the state tax commission not later than [August fifteenth] **September thirtieth** of the year in which such ruling was made.

138.120. MERCHANTS' AND MANUFACTURERS' BOOKS SUBMITTED, WHEN — NOTICE, HEARING (FIRST CLASS COUNTIES). — 1. The merchants' book and manufacturers' book prepared as prescribed by law shall be returned by the assessor to the county board of equalization on the [third Monday in June] **first day of July** of each year, which said board is hereby required to meet at the office of the clerk of the county commission on the [third] **first Monday in [June] July** of each year for the purpose of equalizing the valuation of merchants' and manufacturers' statements, and to that end shall have the same powers and shall proceed in the same manner as provided by law, for the equalization of real and other tangible personal property, so far as is consistent with the provisions of this chapter.

2. After the board shall have raised the valuation of any statement, it shall give notice of the fact to the person, corporation or firm whose statement shall have been raised in amount, by not less than five days' notice through the mail, prior to the day of hearing, specifying the amount of such raise and advising the taxpayer that he may offer objections to such increase as made.

3. The last meeting of said board shall be held not later than the [last Saturday in] **thirty-first day of July** of each year, **except in any city not within a county or any county with a charter form of government, in which such last meeting shall be held not later than the fourth Saturday in August.**

138.170. LENGTH AND PERIOD OF MEETINGS — SUBPOENA WITNESSES — HEARINGS (ST. LOUIS). — 1. Except as provided in subsection 4 of this section, the board shall meet on the [third] **first Monday in [May] July**, annually, [and remain in continuous session for at least three hours of each day, except Saturday, Sunday and holidays, for four weeks] **and may continue to meet as needed until the fourth Saturday in August.**

2. The board may subpoena witnesses and order the production of books and papers, and any member may administer oaths, in relation to any matter within its jurisdiction.

3. The board shall hear and determine all appeals summarily, and keep a record of its proceedings, which shall remain in the assessment division.

4. Upon a finding by the board that it is necessary in order to fairly hear all cases arising from a general reassessment, the board may begin meeting after [May thirty-first] **July first** in any applicable year to timely consider any appeal or complaint resulting from an evaluation made during a general reassessment of all taxable real property and possessory interests in the city.

138.180. APPEAL TO BOARD OF EQUALIZATION, HOW TAKEN. — Any person may appeal in writing to the board of equalization from the assessment of his property, which appeal shall specify the matter of which he complains and which shall be filed at the office of the assessor of the city on or before the second Monday in [May] **July** of each year, and any person so appealing shall have the right of appeal from decisions of the local board to the state tax commission as provided by law. There shall be no presumption that the assessor's valuation is correct.

138.380. DUTIES AND POWERS OF COMMISSION. — It shall be the duty of the state tax commission, and the commissioners shall have authority, to perform all duties enumerated in this section and such other duties as may be provided by law:

(1) To raise or lower the assessed valuation of any real or tangible personal property, including the power to raise or lower the assessed valuation of the real or tangible personal property of any individual, copartnership, company, association or corporation; provided, that before any such assessment is so raised, notice of the intention of the commission to raise such assessed valuation and of the time and place at which a hearing thereon will be held, shall be given to such individual, copartnership, company, association or corporation as provided in sections 138.460 and 138.470;

(2) To require from any officer in this state, on forms prescribed by the commission, such annual or other reports as shall enable said commission to ascertain the assessed and equalized value of all real and tangible property listed for taxation, the amount of taxes assessed, collected and returned, and such other matter as the commission may require, to the end that it may have complete information concerning the entire subject of revenue and taxation and all matters and things incidental thereto;

(3) To cause to be placed upon the assessment rolls at any time during the year omitted property which may be discovered to have, for any reason, escaped assessment and taxation, and to correct any errors that may be found on the assessment rolls and to cause the proper entry to be made thereon;

(4) To investigate the tax laws of other states and countries, to formulate and submit to the legislature such recommendations as the commission may deem expedient to prevent evasions of the assessment and taxing laws, whether the tax is specific or general, to secure just, equal and uniform taxes, and improve the system of assessment and taxation in this state;

(5) To prescribe the form of all blanks and books that are used in the assessment and collection of the general property tax, except as otherwise provided by law; and

(6) To develop, or enter into contracts with entities for the development of, computer software programs sufficient to produce the projected tax liability notices required under subsections 2 and 3 of section 137.180, subsection 2 of section 137.355, and subsection 2 of section 137.490. Upon receiving a request, before December 31, 2009, filed by a collector of any county or any city not within the county, the commission shall provide the collector with such computer software programs.

138.390. TO CLASSIFY AND EQUALIZE PROPERTY. — 1. [Between the dates of June twentieth and the second Monday in July, 1946, and between the same dates each year thereafter,] The state tax commission shall equalize the valuation of real and tangible personal property among the several counties in the state in the following manner: With the abstracts of all the taxable property in the several counties of the state and the abstracts of the sales of real estate in such counties as returned by the respective county clerks and the assessor of the city of St. Louis, the commission shall classify all real estate situate in cities, towns, and villages, as town lots, and all other real estate as farming lands, and shall classify all tangible personal property as follows: Banking corporations, railroad corporations, street railroad corporations, all other corporations, horses, mares and geldings, mules, asses and jennets, neat cattle, sheep, swine, goats, domesticated small animals and all other livestock, poultry, power machinery, farm implements, other tangible personal property.

2. The **state tax** commission shall equalize the valuation of each class **or subclass of property** thereof among the respective counties of the state in the following manner:

(1) It shall add to the valuation of each class, **subclass, or portion thereof**, of the property, real or tangible personal, of each county which it believes to be valued below its real value in money such **amount or** percent as will increase the same in each case to its true value;

(2) It shall deduct from the valuation of each class, **subclass, or portion thereof**, of the property, real or tangible personal, of each county which it believes to be valued above its real value in money such **amount or** percent as will reduce the same in each case to its true value.

138.400. CERTIFICATION OF VALUATION CHANGES — ADJUSTMENTS. — 1. The secretary of the state tax commission shall [transmit] **certify** to each county clerk and to the assessor in the city of St. Louis [a report showing the percent added to or deducted from the valuation of the property of his county, specifying the percentage added to or deducted from the real property and the tangible personal property respectively, denoted by classes, and also the value of the real and tangible personal property of his county as equalized by said commission; and the said clerk shall furnish one copy thereof to the assessor, and except in St. Louis City one copy shall be laid before the annual county board of equalization.

2. This report shall be delivered to the clerks of] **the aggregate values of property in the** several counties [so that it may be in the possession of county boards of equalization on or before the second Monday in July. The assessor in St. Louis City shall make such adjustments of property valuations as directed by the state tax commission] **within fourteen days of the receipt of the abstracts from the county clerk.**

[3.] **2.** It shall be the duty of the state tax commission to require of clerks of the several county commissions of this state and of the assessor in St. Louis City to keep up the aggregate valuation of real and tangible personal property in their respective counties as fixed by the state tax commission, **and to return such aggregate values to the state tax commission upon the adjournment of the board of equalization. The clerks may amend the aggregate values returned to the state tax commission at any time on or before December thirty-first of the year of assessment.**

[4.] **3.** In any case where the final valuation fixed by a county board of equalization, as reported to the state tax commission, differs materially from the valuation fixed by the commission, such county board of equalization may be called into session by order of the state tax commission at any time between the date when such county board of equalization adjourns sine die and the first day of November of the same year.

138.430. RIGHT TO APPEAL, PROCEDURE, NOTICE TO COLLECTOR, WHEN — INVESTIGATION — COSTS AND ATTORNEY'S FEES AWARDED, WHEN. — 1. Every owner of real property or tangible personal property shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, within the time prescribed in this chapter or thirty days following the final action of the local board of equalization, whichever date later occurs, concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property. The commission shall investigate all such appeals and shall correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious. Any person aggrieved by the decision of the commission may seek review as provided in chapter 536, RSMo.

2. In order to investigate such appeals, the commission may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property. The commission may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the commission, or based solely upon evidence presented by the parties to the commission.

3. Every owner of real property or tangible personal property shall have the right to appeal to the circuit court of the county in which the collector maintains his office, from the decision of the local board of equalization not later than thirty days after the final decision of the board of equalization concerning all questions and disputes involving the exclusion or exemption of such

property from assessment or from the tax rolls pursuant to the Constitution of the United States or the constitution or laws of this state, or of the taxable situs of such property. The appeal shall be as a trial de novo in the manner prescribed for nonjury civil proceedings. **Upon the timely filing of the appeal, the clerk of the circuit court shall send to the county collector to whom the taxes on the property involved would be due a notice that an appeal seeking exemption has been filed, which notice shall contain the name of the taxpayer, the case number assigned by the court, and the parcel or locator number of the property being appealed. The notice to the collector shall state that the taxes in dispute are to be impounded in accordance with subsection 2 of section 139.031, RSMo.**

4. Upon the timely filing of an appeal **to the state tax commission** as provided in this section, **or the transfer of an appeal to the commission in accordance with subsection 5 of this section,** the [state tax] commission [or the clerk of the circuit court, as applicable,] shall send to the county collector to whom the taxes on the property involved would be due, a notice that an appeal has been filed **or transferred as the case may be,** which notice shall contain the name [and address] of the taxpayer filing the appeal, **the appeal number assigned by the commission, the parcel or locator number of the property being appealed, the assessed value by the board of equalization and the assessed value proposed by the taxpayer, if such values have been provided to the commission when the appeal is filed. The notice to the collector shall state that the taxes in dispute are to be impounded in accordance with subsection 2 of section 139.031, RSMo. Notice to the collector of an appeal filed in an odd-numbered year shall also serve as notice to the collector to impound taxes for the following even-numbered year if no decision has been rendered in the appeal. The state tax commission shall notify the collector once a decision has been rendered in an appeal.**

5. If the circuit court, after review of the appeal, finds that the appeal is not a proper subject for the appeal to the circuit court as provided in subsection 3 of this section, it shall transfer the appeal to the state tax commission for consideration.

6. If an assessor classifies real property under a classification that is contrary to or in conflict with a determination by the state tax commission or a court of competent jurisdiction of said property, the taxpayer shall be awarded costs of appeal and reasonable attorney's fees on a challenge of the assessor's determination.

138.435. OFFICE OF STATE OMBUDSMAN FOR PROPERTY ASSESSMENT AND TAXATION ESTABLISHED — ADMINISTRATION, DUTIES, AUTHORITY. — 1. There is hereby established within the state tax commission the "Office of State Ombudsman for Property Assessment and Taxation", for the purpose of helping to assure the fairness, accountability, and transparency of the property tax process.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of the position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of taxpayers relating to assessments, valuation of property, tax levies of political subdivisions, and appeals before the assessor, board of equalization, or the state tax commission.

4. The ombudsman or representatives of the office shall have the authority to:

(1) Investigate any complaints or inquiries that come to the attention of the office. The ombudsman shall have access to review taxpayer records, if given permission by the taxpayer or the taxpayer's legal guardian. Taxpayers shall have the right to request, deny, or terminate any assistance that the ombudsman may provide;

(2) Make the necessary inquiries and review of such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant state or local governmental agency or political subdivision changes in the rules and regulations adopted or proposed by such governmental agency or political subdivision which do or may adversely affect the rights or privileges of taxpayers. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations, and policies with respect to property assessment and taxation, and shall recommend to the state tax commission changes in such laws, regulations, and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with taxpayers through the use of volunteers and volunteer programs to encourage citizen involvement in the property tax process.

8. The office shall prepare and distribute to each county written notices which set forth the address, telephone number, and e-mail address of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint, and other pertinent information.

9. The county shall ensure that such written notice is available upon request of any taxpayer.

10. The office shall inform taxpayers or their legal guardians of their rights and entitlements by means of the distribution of educational materials and group meetings.

139.031. PAYMENT OF CURRENT TAXES UNDER PROTEST — ACTION, WHEN COMMENCED, HOW TRIED — REFUNDS, HOW MADE, MAY BE USED AS CREDIT FOR NEXT YEAR'S TAXES — INTEREST, WHEN ALLOWED — COLLECTOR TO INVEST PROTESTED TAXES, DISBURSAL TO TAXING AUTHORITIES, WHEN. — 1. Any taxpayer may protest all or any part of any current taxes assessed against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any current taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. **For all tax years beginning on or after January 1, 2009, any taxpayer desiring to protest any current taxes shall make full payment of the current tax bill and file with the collector a written statement setting forth the grounds on which the protest is based.**

3. Upon receiving payment of current taxes under protest pursuant to subsection 1 of this section or upon receiving **from the state tax commission or the circuit court** notice of an appeal **from the state tax commission or the circuit court** pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not **protested or not** disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are **protested or** in dispute. [Except as provided in subsection 3 of this section,] Every taxpayer protesting the payment of current taxes **under subsection 1 or 2 of this section** shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains his office. If any taxpayer so protesting his taxes **under subsection 1 or 2 of this section** shall fail to commence an action in the circuit court for the recovery of the taxes protested within the time prescribed in this subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the taxes impounded, and any interest earned thereon, as provided above in this subsection.

[3.] 4. No action against the collector shall be commenced by any taxpayer who has, **effective** for the current tax year [in issue], filed with the state tax commission **or the circuit court** a timely and proper appeal of the [protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by subsection 1 of this section] **assessment of the**

taxpayer's property. The **portion of** taxes [so protested] **in dispute from an appeal of an assessment** shall be impounded in a separate fund and the commission **in its decision and order issued pursuant to chapter 138, RSMo, or the circuit court in its judgement** may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release and disburse all or any part of such taxes [in its decision and order issued pursuant to chapter 138, RSMo].

[4.] **5.** Trial of the action, **for recovery of taxes protested under subsection 1 or 2 of this section**, in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after determination of the issues, the court shall make such orders as may be just and equitable to refund to the taxpayer all or any part of the current taxes paid under protest, together with any interest earned thereon, or to authorize the collector to release and disburse all or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing authorities. Either party to the proceedings may appeal the determination of the circuit court.

[5.] **6.** All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax liability in the following taxable year and subsequent consecutive taxable years until the taxpayer has received credit in full for any real or personal property tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector. Such application shall be filed within three years after the tax is mistakenly or erroneously paid. The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds under this subsection by issuing warrants upon the fund to which the mistaken or erroneous payment has been credited, or otherwise.

[6.] **7.** No taxpayer shall receive any interest on any money paid in by the taxpayer erroneously.

[7.] **8.** All protested taxes **impounded under protest under subsection 1 or 2 of this section and all disputed taxes impounded under notice as required by section 138.430, RSMo**, shall be invested by the collector in the same manner as assets specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested **or disputed** taxes shall also receive the interest earned on the investment thereof. If the collector is ordered to release and disburse all or part of the taxes paid under protest **or dispute** to the proper official, such taxes shall be disbursed along with the proportional amount of interest earned on the investment of the taxes due the particular taxing authority.

[8.] **9.** On or before March first next following the delinquent date of taxes paid under protest **or disputed**, the county collector shall notify any taxing authority of the taxes paid under protest **and disputed taxes** which would be received by such taxing authority if the funds were not the subject of a protest **or dispute**. Any taxing authority may apply to the circuit court of the county or city not within a county in which a collector has impounded protested **or disputed** taxes under this section and, upon a satisfactory showing that such taxing authority would receive such impounded tax funds if they were not the subject of a protest **or dispute** and that such taxing authority has the financial ability and legal capacity to repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursal of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested **or disputed** tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection instead of being held and invested by the collector under subsection [7] **8** of this section, such taxing authority shall pay the taxpayer entitled to the refund of such protested **or disputed** taxes the same amount of interest, as determined by the circuit court having jurisdiction in the matter, such protested **or disputed** taxes would have earned if they had been held and invested by the collector.

[9.] **10.** No appeal filed **from the circuit court's or state tax commission's determination pertaining to the amount of refund** shall stay any order of refund, but the decision filed by any court of last review modifying [the circuit court's or state tax commission's] **that** determination [pertaining to the amount of refund] shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part.

163.044. ANNUAL APPROPRIATION OF FIFTEEN MILLION DOLLARS FOR SPECIFIED USES.

— 1. Beginning with the 2007 fiscal year and each subsequent fiscal year, the general assembly shall appropriate fifteen million dollars to be directed in the following manner to school districts with an average daily attendance of three hundred fifty students or less in the school year preceding the payment year:

(1) Ten million dollars shall be distributed to the eligible districts in proportion to their average daily attendance; and

(2) Five million dollars shall be directed to the eligible districts that have an operating levy for school purposes in the current year equal to or greater than the performance levy **and any school districts which have an operating levy for school purposes in the current year less than the performance levy solely due to a modification of such district's levy required under subdivision (4) of subsection 5 of section 137.073, RSMo.** A tax-rate-weighted average daily attendance shall be calculated for each eligible district in proportion to its operating levy for school purposes for the current year divided by the performance levy with that result multiplied by the district's average daily attendance in the school year preceding the payment year. The total appropriation pursuant to this subdivision shall then be divided by the sum of the tax-rate-weighted average daily attendance of the eligible districts, and the resulting amount per tax-rate-weighted average daily attendance shall be multiplied by each eligible district's tax-rate-weighted average daily attendance to determine the amount to be paid to each eligible district.

2. The payment under this section shall not be transferred to the capital projects fund.

3. Except as provided in subsection 2 of this section, districts receiving payments under this section may use the moneys for, including but not limited to, the following:

- (1) Distance learning;
- (2) Extraordinary transportation costs;
- (3) Rural teacher recruitment; and
- (4) Student learning opportunities not available within the district.

164.151. FORM OF BALLOT IN ALL DISTRICTS — PERCENTAGE REQUIRED FOR APPROVAL. — 1. The questions on bond issues in all districts shall be submitted in substantially the following form:

Shall the board of education borrow money in the amount of dollars for the purpose of and issue bonds for the payment thereof **resulting in an estimated increase to the debt service property tax levy of (amount of estimated increase) per one hundred dollars of assessed valuation? If this proposition is approved, the adjusted debt service levy of the school district is estimated to increase from (amount of current school district levy) to (estimated adjusted debt service levy) per one hundred dollars assessed valuation of real and personal property.**

2. If the constitutionally required number of the votes cast are for the loan, the board may, subject to the restrictions of section 164.161, borrow money in the name of the district, to the amount and for the purpose specified in the notices aforesaid, and issue bonds of the district for the payment thereof.

SECTION 1. FEE FOR RECORDS REQUESTED FOR BATCH/BULK CUSTOMERS AUTHORIZED. — The director of the department of revenue shall collect a maximum fee of one half of one cent per motor vehicle or driver license record for batch/bulk customer requests that meet the criteria enumerated in the Drivers Privacy and Protection Act.

[138.395. SCHOOL DISTRICTS, EQUIVALENT SALES RATIO OF ASSESSED VALUATION FOR DISTRIBUTION OF FUNDS, CERTIFICATION PROCEDURE. — The state tax commission shall notify each school district of the equivalent sales ratio for the previous year adopted for determining the equalized assessed valuation of the property and the equalized operating levy of the school district for distributions of school foundation formula funds at least thirty days prior to the certification of such ratio to the department of elementary and secondary education, and shall provide the school district an opportunity for a meeting with the commission, or a duly authorized agent thereof, on such ratio prior to such certification. Prior to January 1, 1997, in certifying said ratios to the department of elementary and secondary education, the commission shall certify all ratios at thirty-three and one-third percent. On and after January 1, 1997, in certifying such ratios to the department of elementary and secondary education, the commission shall certify all ratios higher than thirty-one and two-thirds percent at thirty-three and one-third percent. On and after January 1, 1998, if the state tax commission, after performing the computation of equivalent sales ratio for the county and recomputing such computation to ensure accuracy, finds that such equivalent sales ratio for the county is less than or equal to thirty-one and two-thirds percent, the state tax commission shall reduce the county's reimbursement by fifteen percent the following year if it is not corrected by subsequent action of the state tax commission.]

Approved July 1, 2008

SB 714 [SS SCS SBs 714, 933, 899 & 758]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions relating to sexual offenses

AN ACT to repeal sections 43.650, 211.425, 491.075, 556.061, 565.153, 566.083, 566.147, 566.149, 573.025, 573.035, 573.037, 573.040, 589.015, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, and 650.120, RSMo, and to enact in lieu thereof twenty-five new sections relating to sexual offenses, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 43.650. Internet site to be maintained, registered sex offender search — confidentiality, release of information, when.
- 43.651. On-line identifiers, patrol to make information available, when.
- 211.425. Registration of juvenile sex offenders, when — agencies required to register juveniles, when — registration form, contents — registry maintained — confidentiality of registry — penalty for failure to register — termination of requirement, when.
- 491.075. Statement of child under fourteen admissible, when.
- 556.061. Code definitions.
- 565.153. Parental kidnapping — penalty.
- 566.083. Sexual misconduct involving a child, penalty — applicability of section — affirmative defense not allowed, when.
- 566.147. Certain offenders not to reside within one thousand feet of a school or child-care facility.

- 566.149. Certain offenders not to be present within five hundred feet of school property, exception — permission required for parents or guardians who are offenders, procedure — penalty.
- 566.153. Age misrepresentation, crime of — penalty.
- 573.025. Promoting child pornography in the first degree.
- 573.035. Promoting child pornography in the second degree.
- 573.037. Possession of child pornography.
- 573.038. Property or material constituting child pornography to remain in custody of the state — availability of, when.
- 573.040. Furnishing pornographic materials to minors.
- 589.015. Definitions.
- 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration — fees — automatic removal from registry — petitions for removal — procedure, notice, denial of petition — higher education students and workers — persons removed.
- 589.402. Internet search capability of registered sex offenders to be maintained — information to be made available — newspaper publication.
- 589.403. Correctional facility or mental health institution releasing on parole or discharge, official in charge, duties.
- 589.405. Court's duties upon release of sexual offender.
- 589.407. Registration, required information — substantiating accuracy of information.
- 589.414. Registrant's duties on change of address — time limitations for certain notifications — change in on-line identifiers, duty to report.
- 589.425. Failure to register, penalty — subsequent violations, penalty.
- 589.426. Halloween, restrictions on conduct — violations, penalty.
- 650.120. Grants to fund investigations of Internet sex crimes against children — fund created — panel, membership, terms — local matching amounts — priorities — training standards — information sharing — panel recommendation — power of arrest — sunset provision.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.650, 211.425, 491.075, 556.061, 565.153, 566.083, 566.147, 566.149, 573.025, 573.035, 573.037, 573.040, 589.015, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, and 650.120, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 43.650, 43.651, 211.425, 491.075, 556.061, 565.153, 566.083, 566.147, 566.149, 566.153, 573.025, 573.035, 573.037, 573.038, 573.040, 589.015, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 589.426, and 650.120, to read as follows:

43.650. INTERNET SITE TO BE MAINTAINED, REGISTERED SEX OFFENDER SEARCH — CONFIDENTIALITY, RELEASE OF INFORMATION, WHEN. — 1. The patrol shall, subject to appropriation, maintain a web page on the Internet which shall be open to the public and shall include a registered sexual offender search capability.

2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in subsection 4 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, RSMo, except that only persons who have been convicted of, found guilty of or plead guilty to committing [or], attempting to commit, **or conspiring to commit** sexual offenses shall be included on this web site.

3. The registered sexual offender search shall include the capability to search for sexual offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address.

4. Only the information listed in this subsection shall be provided to the public in the registered sexual offender search:

- (1) The name and any known aliases of the offender;
- (2) The date of birth and any known alias dates of birth of the offender;
- (3) A physical description of the offender;
- (4) The residence, temporary, work, and school addresses of the offender, including the street address, city, county, state, and zip code;
- (5) Any photographs of the offender;

(6) A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;

(7) The nature and dates of all offenses qualifying the offender to register;

(8) The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register; [and]

(9) Compliance status of the offender with the provisions of section 589.400 to 589.425, RSMo; and

(10) Any online identifiers, as defined in section 43.651, used by the person. Such online identifiers shall not be included in the general profile of an offender on the web page and shall only be available to a member of the public by a search using the specific online identifier to determine if a match exists with a registered offender.

43.651. ON-LINE IDENTIFIERS, PATROL TO MAKE INFORMATION AVAILABLE, WHEN. —

1. As used in this section, the following terms shall mean:

(1) "Electronic mail", the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone or other wireless communication device, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person;

(2) "Entity", a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is within or outside this state;

(3) "Instant message", a form of real time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet, or between cell phone or wireless communication device users, or over a cell phone or wireless communication device network;

(4) "Online identifier", includes all of the following: electronic mail address and instant message screen name, user ID, cell phone number or wireless communication device number or identifier, chat or other Internet communication name, or other identity information.

2. Subject to appropriations, the patrol shall make registry information regarding a registered sexual offender's online identifiers available to an entity for the purpose of allowing the entity to prescreen users or for comparison with information held by the entity as provided by this subsection.

(1) The information obtained by an entity from the state sexual offender registry shall not be used for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the state sexual offender registry in order to protect children from online sexual predators. The patrol shall promulgate rules and regulations regarding the release and use of online identifier information. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

(2) Any entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the state sexual offender registry may apply to the patrol to access the information. An entity that complies with the rules and regulations promulgated by the patrol regarding the release and use of the online identifier

information and pays the fee established by the patrol may screen new users or compare its database of registered users to the list of online identifiers of persons in the state sexual offender registry as frequently as the patrol may allow for the purpose of identifying a registered user associated with an online identifier contained in the state sexual offender registry.

(3) Any entity complying with this subsection in good faith shall be immune from any civil or criminal liability resulting from:

(a) The entity's refusal to provide system service to a person on the basis that the entity believed that the person was required to register under sections 589.400 to 589.425, RSMo;

(b) A person's criminal or tortious acts when the person is required to register pursuant to sections 589.400 to 589.425, RSMo, and the person complied with the requirement to register their online identifiers under section 589.407, RSMo, and committed the criminal or tortious acts against a minor with whom he or she had communicated on the entity's system by using their registered online identifier; or

(c) Any activity for which the entity would be immune from liability under 47 U.S.C. Section 230.

211.425. REGISTRATION OF JUVENILE SEX OFFENDERS, WHEN — AGENCIES REQUIRED TO REGISTER JUVENILES, WHEN — REGISTRATION FORM, CONTENTS — REGISTRY MAINTAINED — CONFIDENTIALITY OF REGISTRY — PENALTY FOR FAILURE TO REGISTER — TERMINATION OF REQUIREMENT, WHEN. — 1. Any person who has been adjudicated a delinquent by a juvenile court for committing or attempting to commit a sex-related offense which if committed by an adult would be considered a felony offense pursuant to chapter 566, RSMo, including, but not limited to, rape, forcible sodomy, child molestation and sexual abuse, shall be considered a juvenile sex offender and shall be required to register as a juvenile sex offender by complying with the registration requirements provided for in this section, **unless such juvenile adjudicated as a delinquent is fourteen years of age or older at the time of the offense and the offense adjudicated would be considered a felony under chapter 566, RSMo, if committed by an adult, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, including any attempt or conspiracy to commit such offense, in which case, the juvenile shall be required to register as an adult sexual offender under sections 589.400 to 589.425, RSMo.** This requirement shall also apply to any person who is or has been adjudicated a juvenile delinquent in any other state or federal jurisdiction for committing [or], attempting to commit, **or conspiring to commit** offenses which would be proscribed herein.

2. Any state agency having supervision over a juvenile required to register as a juvenile sex offender or any court having jurisdiction over a juvenile required to register as a juvenile sex offender, or any person required to register as a juvenile sex offender, shall, within ten days of the juvenile offender moving into any county of this state, register with the juvenile office of the county. If such juvenile offender changes residence or address, the state agency, court or person shall inform the juvenile office within ten days of the new residence or address and shall also be required to register with the juvenile office of any new county of residence. Registration shall be accomplished by completing a registration form similar to the form provided for in section 589.407, RSMo. Such form shall include, but is not limited to, the following:

(1) A statement in writing signed by the juvenile, giving the juvenile's name, address, Social Security number, phone number, school in which enrolled, place of employment, offense which requires registration, including the date, place, and a brief description of such offense, date and place of adjudication regarding such offense, and age and gender of the victim at the time of the offense; and

(2) The fingerprints and a photograph of the juvenile.

3. Juvenile offices shall maintain the registration forms of those juvenile offenders in their jurisdictions who register as required by this section. Information contained on the registration forms shall be kept confidential and may be released by juvenile offices to only those persons and agencies who are authorized to receive information from juvenile court records as provided by law, including, but not limited to, those specified in section 211.321. State agencies having custody of juveniles who fall within the registration requirements of this section shall notify the appropriate juvenile offices when such juvenile offenders are being transferred to a location falling within the jurisdiction of such juvenile offices.

4. Any juvenile who is required to register pursuant to this section but fails to do so or who provides false information on the registration form is subject to disposition pursuant to this chapter. Any person seventeen years of age or over who commits such violation is guilty of a class A misdemeanor as provided for in section 211.431.

5. Any juvenile to whom the registration requirement of this section applies shall be informed by the official in charge of the juvenile's custody, upon the juvenile's discharge or release from such custody, of the requirement to register pursuant to this section. Such official shall obtain the address where such juvenile expects to register upon being discharged or released and shall report the juvenile's name and address to the juvenile office where the juvenile will be required to register. This requirement to register upon discharge or release from custody does not apply in situations where the juvenile is temporarily released under guard or direct supervision from a detention facility or similar custodial facility.

6. The requirement to register as a juvenile sex offender shall terminate upon the juvenile offender reaching age twenty-one, unless such juvenile offender is required to register as an adult offender pursuant to section 589.400, RSMo.

491.075. STATEMENT OF CHILD UNDER FOURTEEN ADMISSIBLE, WHEN. — 1. A statement made by a child under the age of fourteen relating to an offense under chapter 565, 566, [or] 568 **or** 573, RSMo, performed with or on a child by another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of this state as substantive evidence to prove the truth of the matter asserted if:

(1) The court finds, in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(2) (a) The child testifies at the proceedings; or

(b) The child is unavailable as a witness; or

(c) The child is otherwise physically available as a witness but the court finds that the significant emotional or psychological trauma which would result from testifying in the personal presence of the defendant makes the child unavailable as a witness at the time of the criminal proceeding.

2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence requiring corroboration of statements, admissions or confessions of the defendant, and notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age of fourteen who is alleged to be victim of an offense under chapter 565, 566, [or] 568 **or** 573, RSMo, is sufficient corroboration of a statement, admission or confession regardless of whether or not the child is available to testify regarding the offense.

3. A statement may not be admitted under this section unless the prosecuting attorney makes known to the accused or the accused's counsel his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the accused or the accused's counsel with a fair opportunity to prepare to meet the statement.

4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or confessions otherwise admissible by law.

556.061. CODE DEFINITIONS. — In this code, unless the context requires a different definition, the following shall apply:

- (1) "Affirmative defense" has the meaning specified in section 556.056;
 - (2) "Burden of injecting the issue" has the meaning specified in section 556.051;
 - (3) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;
 - (4) "Confinement":
 - (a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:
 - a. A court orders the person's release; or
 - b. The person is released on bail, bond, or recognizance, personal or otherwise; or
 - c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;
 - (b) A person is not in confinement if:
 - a. The person is on probation or parole, temporary or otherwise; or
 - b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;
 - (5) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:
 - (a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or
 - (b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
 - (c) It is induced by force, duress or deception;
 - (6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;
 - (7) "Custody", a person is in custody when the person has been arrested but has not been delivered to a place of confinement;
 - (8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, and, abuse of a child pursuant to subdivision (2) of subsection 3 of section 568.060, RSMo, [and] child kidnapping, **and parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153, RSMo;**
 - (9) "Dangerous instrument" means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;
 - (10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;
 - (11) "Felony" has the meaning specified in section 556.016;
 - (12) "Forcible compulsion" means either:
 - (a) Physical force that overcomes reasonable resistance; or
-

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(13) "Incapacitated" means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act;

(14) "Infraction" has the meaning specified in section 556.021;

(15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;

(16) "Knowingly" has the meaning specified in section 562.016, RSMo;

(17) "Law enforcement officer" means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) "Misdemeanor" has the meaning specified in section 556.016;

(19) "Offense" means any felony, misdemeanor or infraction;

(20) "Physical injury" means physical pain, illness, or any impairment of physical condition;

(21) "Place of confinement" means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) "Possess" or "possessed" means having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(23) "Public servant" means any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(24) "Purposely" has the meaning specified in section 562.016, RSMo;

(25) "Recklessly" has the meaning specified in section 562.016, RSMo;

(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(28) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;

(32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

565.153. PARENTAL KIDNAPPING — PENALTY. — 1. In the absence of a court order determining rights of custody or visitation to a child, a person having a right of custody of the child commits the crime of parental kidnapping if he removes, takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child.

2. Parental kidnapping is a class D felony, **unless committed by detaining or concealing the whereabouts of the child for:**

(1) **Not less than sixty days but not longer than one hundred nineteen days, in which case, the crime is a class C felony;**

(2) **Not less than one hundred twenty days, in which case, the crime is a class B felony.**

3. A subsequently obtained court order for custody or visitation shall not affect the application of this section.

566.083. SEXUAL MISCONDUCT INVOLVING A CHILD, PENALTY — APPLICABILITY OF SECTION — AFFIRMATIVE DEFENSE NOT ALLOWED, WHEN. — 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes his or her genitals to a child less than [fourteen] **fifteen** years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

(2) Knowingly exposes his or her genitals to a child less than [fourteen] **fifteen** years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Knowingly coerces or induces a child less than [fourteen] **fifteen** years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. It is not an affirmative defense to prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

4. Sexual misconduct involving a child **or attempted sexual misconduct involving a child** is a class D felony unless the actor has previously pleaded guilty to or been found guilty of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY. — 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; **or for an offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;** shall not reside within one thousand feet of any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

566.149. CERTAIN OFFENDERS NOT TO BE PRESENT WITHIN FIVE HUNDRED FEET OF SCHOOL PROPERTY, EXCEPTION — PERMISSION REQUIRED FOR PARENTS OR GUARDIANS WHO ARE OFFENDERS, PROCEDURE — PENALTY. — 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; **or for an offense in any other state or foreign country, or under tribal, federal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;** shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. Violation of the provisions of this section shall be a class A misdemeanor.

566.153. AGE MISREPRESENTATION, CRIME OF — PENALTY. — 1. A person commits the crime of age misrepresentation with intent to solicit a minor when he or she knowingly misrepresents his or her age with the intent to use the Internet to engage in criminal sexual conduct involving a minor.

2. Age misrepresentation with intent to solicit a minor is a class D felony.

573.025. PROMOTING CHILD PORNOGRAPHY IN THE FIRST DEGREE. — 1. A person commits the crime of promoting child pornography in the first degree if, knowing of its content and character, such person possesses with the intent to promote or promotes [obscene material that has a child as one of its participants or portrays what appears to be a child as a participant or observer of sexual conduct] **child pornography of a child less than fourteen years of age or obscene material portraying what appears to be a child less than fourteen years of age.**

2. Promoting child pornography in the first degree is a class B felony unless the person knowingly promotes such material to a minor, in which case it is a class A felony. **No person who pleads guilty to or is found guilty of, or is convicted of promoting child pornography in the first degree shall be eligible for probation, parole, or conditional release for a period of three calendar years.**

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

573.035. PROMOTING CHILD PORNOGRAPHY IN THE SECOND DEGREE. — 1. A person commits the crime of promoting child pornography in the second degree if knowing of its content and character such person possesses with the intent to promote or promotes child pornography [or obscene material that has a minor as one of its participants, or portrays what appears to be a minor as a participant or observer of sexual conduct] **of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.**

2. Promoting child pornography in the second degree is a class C felony unless the person knowingly promotes such material to a minor, in which case it is a class B felony. **No person who is found guilty of, pleads guilty to, or is convicted of promoting child pornography in the second degree shall be eligible for probation.**

573.037. POSSESSION OF CHILD PORNOGRAPHY. — 1. A person commits the crime of possession of child pornography if, knowing of its content and character, such person possesses any [obscene material that has a child as one of its participants or portrays what appears to be a child as an observer or participant of sexual conduct] **child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.**

2. Possession of child pornography is a class [D] C felony unless the person **possesses more than twenty still images of child pornography, possesses one motion picture, film, videotape, videotape production, or other moving image of child pornography,** or has pleaded guilty to or has been found guilty of an offense under this section, in which case it is a class [C] B felony.

573.038. PROPERTY OR MATERIAL CONSTITUTING CHILD PORNOGRAPHY TO REMAIN IN CUSTODY OF THE STATE — AVAILABILITY OF, WHEN. — 1. **In any criminal proceeding, any property or material that constitutes child pornography shall remain in the care, custody, and control of either the state or the court.**

2. (1) Notwithstanding Missouri Rule of Criminal Procedure 25.03 or any other rule or statute to the contrary, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography, so long as the state makes the property or material reasonably available to the defendant.

(2) For the purposes of subdivision (1) of this subsection, property or material shall be deemed to be reasonably available to the defendant if the state provides ample opportunity for inspection, viewing, and examination at a state or other governmental

facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

573.040. FURNISHING PORNOGRAPHIC MATERIALS TO MINORS. — 1. A person commits the crime of furnishing pornographic material to minors if, knowing its content and character, he or she:

(1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

(3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. **It is not an affirmative defense to a prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.**

3. **Furnishing pornographic material to minors or attempting to furnish pornographic material to minors** is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense committed at a different time pursuant to this chapter, chapter 566 or chapter 568, RSMo, in which case it is a class D felony.

589.015. DEFINITIONS. — As used in sections 589.010 to 589.040:

(1) The term "center" shall mean the state center for the prevention and control of sexual assault established pursuant to section 589.030;

(2) The term "sexual assault" shall include:

(a) The acts of rape, forcible rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, sodomy, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct and sexual abuse, or attempts to commit any of the aforesaid, as these acts are defined in chapter 566, RSMo;

(b) The act of incest, as this act is defined in section 568.020, RSMo;

(c) The act of abuse of a child, as defined in subdivision (1) of subsection 1 of section 568.060, RSMo, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060, RSMo; [and]

(d) The act of use of a child in a sexual performance as defined in section 568.080, RSMo; and

(e) **The act of enticement of a child, as defined in section 566.150, RSMo, or any attempt to commit such act.**

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION — FEES — AUTOMATIC REMOVAL FROM REGISTRY — PETITIONS FOR REMOVAL — PROCEDURE, NOTICE, DENIAL OF PETITION — HIGHER EDUCATION STUDENTS AND WORKERS — PERSONS REMOVED. — 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, [or] attempting to commit, **or conspiring to commit** a felony offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a minor; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, [or] attempting to commit, **or conspiring to commit** one or more of the following offenses: kidnapping when the victim was a child and the defendant was not a parent or guardian of the child; **abuse of a child under section 568.060, RSMo, when such abuse is sexual in nature**; felonious restraint when the victim was a child and the defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a nursing home, under section 565.200, RSMo; endangering the welfare of a child under section 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree; incest; use of a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) **Any juvenile certified as an adult and transferred to a court of general jurisdiction, who has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony under chapter 566, RSMo, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;**

(6) **Any juvenile fourteen years of age or older at the time of the offense, who has been adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;**

(7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, **or** foreign country, or under federal, **tribal**, or military jurisdiction to committing, [or], attempting to commit, **or conspiring to commit** an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under **tribal**, federal, or military law; or

[(6)] (8) Any person who has been or is required to register in another state or has been or is required to register under **tribal**, federal, or military law and who works or attends [school or training] **an educational institution, whether public or private in nature, including any secondary school, trade school, professional school, or institution of higher education** on a full-time or on a part-time basis or has a temporary residence in Missouri. "Part-time" in this subdivision means for more than [fourteen] **seven** days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within [ten] **three** days of conviction, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county or city not within a county in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county or city not within a county within [ten] **three** days [of August 28, 2003]. The chief law enforcement official shall forward

a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless:

- (1) All offenses requiring registration are reversed, vacated or set aside;
- (2) The registrant is pardoned of the offenses requiring registration;
- (3) The registrant is no longer required to register and his or her name shall be removed from the registry under the provisions of subsection 6 of this section; or
- (4) The registrant may petition the court for removal from the registry under subsection 7 or 8 of this section and the court orders the removal of such person from the registry.

4. For processing an initial sex offender registration the chief law enforcement officer of the county or city not within a county may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county or city not within a county may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

6. [Effective August 28, 2006,] Any person currently on the sexual offender registry for being convicted of, found guilty of, or pleading guilty or nolo contendere to committing, **attempting to commit, or conspiring to commit**, felonious restraint when the victim was a child and he or she was the parent or guardian of the child, nonsexual child abuse that was committed under section 568.060, RSMo, or kidnapping when the victim was a child and he or she was the parent or guardian of the child shall be removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425.

7. [Effective August 28, 2006,] Any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to **committing, attempting to commit, or conspiring to commit** promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to **committing, attempting to commit, or conspiring to commit** the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register.

8. Effective August 28, 2006, any person on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense.

9. (1) The court may grant such relief under subsection 7 or 8 of this section if such person demonstrates to the court that he or she has complied with the provisions of this section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise

demonstrate the reasons why the petition should be denied. Failure of the person seeking removal from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of the crime for which the person was required to register of the petition and the dates and times of any hearings or other proceedings in connection with that petition.

(2) If the petition is denied, such person shall wait at least twelve months before petitioning the court again. If the court finds that the petitioner is entitled to relief, which removes such person's name from the registry, a certified copy of the written findings or order shall be forwarded by the court to the chief law enforcement official having jurisdiction over the offender and to the Missouri state highway patrol in order to have such person's name removed from the registry.

10. Any nonresident worker or nonresident student shall register for the duration of such person's employment or attendance at any school of higher education and is not entitled to relief under the provisions of subsection 9 of this section. Any registered offender from another state who has a temporary residence in this state and resides more than [fourteen] **seven** days in a twelve-month period shall register for the duration of such person's temporary residency and is not entitled to the provisions of subsection 9 of this section.

11. Any person whose name is removed from the sexual offender registry under subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements of sections 589.400 to 589.425, unless such person is required to register for committing another offense after being removed from the registry.

589.402. INTERNET SEARCH CAPABILITY OF REGISTERED SEX OFFENDERS TO BE MAINTAINED — INFORMATION TO BE MADE AVAILABLE — NEWSPAPER PUBLICATION. —

1. The chief law enforcement officer of the county or city not within a county may maintain a web page on the Internet, which shall be open to the public and shall include a registered sexual offender search capability.

2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in subsection 3 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, except that only persons who have been convicted of, found guilty of, or plead guilty to committing [or], attempting to commit, **or conspiring to commit** sexual offenses shall be included on this web site.

3. Only the information listed in this subsection shall be provided to the public in the registered sexual offender search:

- (1) The name and any known aliases of the offender;
- (2) The date of birth and any known alias dates of birth of the offender;
- (3) A physical description of the offender;
- (4) The residence, temporary, work, and school addresses of the offender, including the street address, city, county, state, and zip code;
- (5) Any photographs of the offender;
- (6) A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;
- (7) The nature and dates of all offenses qualifying the offender to register;
- (8) The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register; [and]
- (9) Compliance status of the offender with the provisions of sections 589.400 to 589.425;

and

(10) Any online identifiers, as defined in section 43.651, RSMo, used by the person. Such online identifiers shall not be included in the general profile of an offender on the

web page and shall only be available to a member of the public by a search using the specific online identifier to determine if a match exists with a registered offender.

4. The chief law enforcement officer of any county or city not within a county may publish in any newspaper distributed in the county or city not within a county the sexual offender information provided under subsection 3 of this section for any offender residing in the county or city not within a county.

589.403. CORRECTIONAL FACILITY OR MENTAL HEALTH INSTITUTION RELEASING ON PAROLE OR DISCHARGE, OFFICIAL IN CHARGE, DUTIES. — Any person to whom subsection 1 of section 589.400 applies who is paroled, discharged, or otherwise released from any correctional facility of the department of corrections or any mental health institution where such person was confined shall be informed by the official in charge of such correctional facility or mental health institution of the person's possible duty to register pursuant to sections 589.400 to 589.425. If such person is required to register pursuant to sections 589.400 to 589.425, the official in charge of the correctional facility or the mental health institution shall [obtain the address where the person expects to reside upon discharge, parole or release, and shall report such address] **complete the initial registration prior to release and forward the offender's registration, within three business days,** to the chief law enforcement official of the county or city not within a county where the person expects to reside upon discharge, parole or release. **When the person lists an address where he or she expects to reside that is not in this state, the initial registration shall be forwarded to the Missouri state highway patrol.**

589.405. COURT'S DUTIES UPON RELEASE OF SEXUAL OFFENDER. — Any person to whom subsection 1 of section 589.400 applies who is released on probation, discharged upon payment of a fine, or released after confinement in a county jail shall, prior to such release or discharge, be informed of the possible duty to register pursuant to sections 589.400 to 589.425 by the court having jurisdiction over the case. If such person is required to register pursuant to sections 589.400 to 589.425, the court shall obtain the address where the person expects to reside upon discharge, parole or release and shall report, **within three business days,** such address to the chief law enforcement official of the county or city not within a county where the person expects to reside, upon discharge, parole or release.

589.407. REGISTRATION, REQUIRED INFORMATION — SUBSTANTIATING ACCURACY OF INFORMATION. — 1. Any registration pursuant to sections 589.400 to 589.425 shall consist of completion of an offender registration form developed by the Missouri state highway patrol. Such form shall include, but is not limited to the following:

(1) A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, the license plate number and vehicle description, including the year, make, model, and color of each vehicle owned or operated by the offender, **any online identifiers, as defined in section 43.651, RSMo, used by the person,** the place of employment of such person, enrollment within any institutions of higher education, the crime which requires registration, whether the person was sentenced as a persistent or predatory offender pursuant to section 588.018, RSMo, the date, place, and a brief description of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable; [and]

(2) The fingerprints, **palm prints,** and a photograph of the person; **and**

(3) **A DNA sample, if a sample has not already been obtained.**

2. The offender shall provide positive identification and documentation to substantiate the accuracy of the information completed on the offender registration form, including but not limited to the following:

(1) A photocopy of a valid driver's license or nondriver's identification card;

- (2) A document verifying proof of the offender's residency; and
- (3) A photocopy of the vehicle registration for each of the offender's vehicles.

589.414. REGISTRANT'S DUTIES ON CHANGE OF ADDRESS — TIME LIMITATIONS FOR CERTAIN NOTIFICATIONS — CHANGE IN ON-LINE IDENTIFIERS, DUTY TO REPORT. — 1. [If] Any person required by sections 589.400 to 589.425 to register [changes residence or address within the same county or city not within a county as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed] **shall, not later than three business days after each change of name, residence within the county or city not within a county at which the offender is registered, employment, or student status, appear in person to the chief law enforcement officer of the county or city not within a county and inform such officer of all changes in the information required by the offender. The chief law enforcement officer shall immediately forward the registrant changes to the Missouri state highway patrol within three business days.**

2. If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county **or city not within a county**, the person shall appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law enforcement official of the county or city not within a county having jurisdiction over the new residence or address in writing within [ten] **three business** days of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state of residence, the person shall appear in person and shall inform both the chief law enforcement official with whom the person was last registered and the chief law enforcement official of the area in the new state having jurisdiction over the new residence or address within [ten] **three business** days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county or city not within a county where the person was previously registered shall [promptly] inform the Missouri state highway patrol of the change **within three business days**. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall [promptly] inform the responsible official in the new state of residence **within three business days**.

3. [Any person required by sections 589.400 to 589.425 to register who changes his or her enrollment or employment status with any institution of higher education within this state, by either beginning or ending such enrollment or employment, shall inform the chief law enforcement officer of such change within seven days after such change is made.

4. Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

5.] In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall report in person to the chief law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018, RSMo;

(2) Any offender who is registered for a crime where the victim was less than eighteen years of age at the time of the offense; and

(3) Any offender who has pled guilty or been found guilty pursuant to section 589.425 of failing to register or submitting false information when registering.

[6.] **4.** In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report semiannually in person in the month of their birth and six months thereafter to the chief law enforcement agency to verify the information contained in their statement made pursuant to section 589.407. All registrants shall [provide an updated photograph of himself or herself] **allow the chief law enforcement officer to take a current photograph of the**

offender in the month of his or her birth to the chief law enforcement agency. [The photograph must depict a clear likeness of the registrant or the registrant shall be in violation of this section.]

[7.] **5.** In addition to the requirements of subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state shall be required to report in person to the chief law enforcement officer in the area of the state where they work or attend school or training and register in that state. "Part-time" in this subsection means for more than [fourteen] **seven** days in any twelve-month period.

6. If a person, who is required to register as a sexual offender under sections 589.400 to 589.425, changes or obtains a new online identifier as defined in section 43.651, RSMo, the person shall report such information in the same manner as a change of residence before using such online identifier.

589.425. FAILURE TO REGISTER, PENALTY — SUBSEQUENT VIOLATIONS, PENALTY. —

1. A person commits the crime of failing to register as a sex offender when the person is required to register under sections 589.400 to 589.425 and fails to comply with any requirement of sections 589.400 to 589.425. Failing to register as a sex offender is a class [A misdemeanor] **D felony** unless the person is required to register based on having committed an offense in chapter 566, RSMo, which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class [D] **C felony**.

2. A person commits the crime of failing to register as a sex offender as a second offense by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a second offense is a class D felony unless the person is required to register based on having committed an offense in chapter 566, RSMo, which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class C felony.

3. A person commits the crime of failing to register as a sex offender as a third offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on two or more occasions, previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a third offense is a felony which shall be punished by a term of imprisonment of not less than ten years and not more than thirty years.

(1) No court may suspend the imposition or execution of sentence of a person who pleads guilty to or is found guilty of failing to register as a sex offender as a third offense. No court may sentence such person to pay a fine in lieu of a term of imprisonment.

(2) A person sentenced under this subsection shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment.

(3) Upon release, an offender who has committed failing to register as a sex offender as a third offense shall be electronically monitored as a mandatory condition of supervision. Electronic monitoring may be based on a global positioning system or any other technology which identifies and records the offender's location at all times.

589.426. HALLOWEEN, RESTRICTIONS ON CONDUCT — VIOLATIONS, PENALTY. — 1. Any person required to register as a sexual offender under sections 589.400 to 589.425 shall be required on October thirty-first of each year to:

- (1) Avoid all Halloween-related contact with children;**
- (2) Remain inside his or her residence between the hours of 5 p.m. and 10:30 p.m. unless required to be elsewhere for just cause, including but not limited to, employment or medical emergencies;**
- (3) Post a sign at his or her residence stating, "No candy or treats at this residence";**
and
- (4) Leave all outside residential lighting off during the evening hours after 5 p.m.**

2. Any person required to register as a sexual offender under sections 589.400 to 589.425 who violates the provisions of subsection 1 of this section shall be guilty of a class A misdemeanor.

650.120. GRANTS TO FUND INVESTIGATIONS OF INTERNET SEX CRIMES AGAINST CHILDREN — FUND CREATED — PANEL, MEMBERSHIP, TERMS — LOCAL MATCHING AMOUNTS — PRIORITIES — TRAINING STANDARDS — INFORMATION SHARING — PANEL RECOMMENDATION — POWER OF ARREST — SUNSET PROVISION. — 1. [Subject to appropriation,] There is hereby created in the state treasury the "Cyber Crime Investigation Fund". The treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Beginning with the 2010 fiscal year and in each subsequent fiscal year, the general assembly shall appropriate three million dollars to the cyber crime investigation fund. The department of public safety shall be the administrator of the fund. Money in the fund shall be used solely for the administration of the grant program established under this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. The department of public safety shall create a program to distribute grants to multi jurisdictional Internet cyber crime law enforcement task forces, multi jurisdictional enforcement groups, as defined in section 195.503, RSMo, that are investigating Internet sex crimes against children, and other law enforcement agencies. **The program shall be funded by the cyber crime investigation fund created under subsection 1 of this section.** Not more than three percent of the money [appropriated] in the fund may be used by the department to pay the administrative costs of the grant program. The grants shall be awarded and used to pay the salaries of detectives and computer forensic personnel whose focus is investigating Internet sex crimes against children, including but not limited to enticement of a child, possession or promotion of child pornography, provide funding for the training of law enforcement personnel **and prosecuting and circuit attorneys as well as their assistant prosecuting and circuit attorneys**, and purchase necessary equipment, supplies, and services. The funding for such training may be used to cover the travel expenses of those persons participating.

[2.] **3.** A panel is hereby established in the department of public safety to award grants under this program and shall be comprised of the following members:

- (1) The director of the department of public safety, or his or her designee;
- (2) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Police Chiefs Association;
- (3) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Sheriffs' Association;
- (4) Two members of the state highway patrol shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri State Troopers Association;
- (5) One member of the house of representatives who shall be appointed by the speaker of the house of representatives; and
- (6) One member of the senate who shall be appointed by the president pro tem.

The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Such members shall hold office for the term of his or her appointment and until a successor is appointed. The

members of the panel shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of panel duties.

[3.] 4. Local matching amounts, which may include new or existing funds or in-kind resources including but not limited to equipment or personnel, are required for multi jurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies to receive grants awarded by the panel. Such amounts shall be determined by the state appropriations process or by the panel.

[4.] 5. When awarding grants, priority should be given to newly hired detectives and computer forensic personnel.

[5.] 6. The panel shall establish minimum training standards for detectives and computer forensic personnel participating in the grant program established in subsection 1 of this section.

[6.] 7. Multi jurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies participating in the grant program established in subsection 1 of this section shall share information and cooperate with the highway patrol and with existing Internet crimes against children task force programs.

[7.] 8. The panel may make recommendations to the general assembly regarding the need for additional resources or appropriations.

[8.] 9. The power of arrest of any peace officer who is duly authorized as a member of a multi jurisdictional Internet cyber crime law enforcement task force shall only be exercised during the time such peace officer is an active member of such task force and only within the scope of the investigation on which the task force is working. Notwithstanding other provisions of law to the contrary, such task force officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of a municipality or the sheriff of the county in which the arrest is to take place. If exigent circumstances exist, such arrest may be made and notification shall be made to the chief of police or sheriff as appropriate and as soon as practical. The chief of police or sheriff may elect to work with the multi jurisdictional Internet cyber crime law enforcement task force at his or her option when such task force is operating within the jurisdiction of such chief of police or sheriff.

[9.] 10. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect the children of this state, the enactment of section 573.038 and the repeal and reenactment of sections 491.075, 573.025, 573.035, and 573.037, of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, the enactment of section 573.038 and the repeal and reenactment of sections 491.075, 573.025, 573.035, and 573.037, of this act shall be in full force and effect upon its passage and approval.

Approved June 30, 2008

SB 718 [CCS HCS#2 SS SCS SB 718]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of certain tax credit programs administered by the Department of Economic Development

AN ACT to repeal sections 32.105, 67.1501, 67.1545, 94.900, 94.902, 99.820, 135.815, 135.967, 137.115, 447.708, 620.1878, and 620.1881, RSMo, section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, and to enact in lieu thereof fifteen new sections relating to tax incentives for business development.

SECTION

- A. Enacting clause.
- 32.105. Definitions.
- 67.1501. Funding of district.
- 67.1545. Sales and use tax authorized in certain districts — procedure to adopt, ballot language, imposition and collection by retailers — penalties for violations — deposit into trust fund, use — repeal procedure.
- 94.900. Sales tax authorized (Excelsior Springs, Harrisonville) — proceeds to be used for public safety purposes — ballot language — collection of tax, procedure.
- 94.902. Sales tax authorized for certain cities (Gladstone, Raytown) — ballot, effective date — administration and collection — refunds, use of funds upon establishment of tax — repeal.
- 99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
- 99.825. Adoption of ordinance for redevelopment, public hearing required — objection procedure — hearing and notices not required, when — restrictions on certain projects.
- 99.825. Adoption of ordinance for redevelopment, public hearing required — objection procedure — hearing and notices not required, when — restrictions on certain projects.
- 135.682. Letter rulings to be issued, procedure — letter rulings closed records.
- 135.815. Verification of applicant's tax payment status, when, effect of delinquency — employment of unauthorized aliens, effect of.
- 135.967. Tax credit allowed, duration — prohibition on receiving other tax credits — limitations on issuance of tax credits — cap — eligibility of certain expansions — employee calculations — computation of credit — flow-through tax treatments — credits may be claimed, when — certificates — refunds — verification procedures.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 144.057. All tangible personal property on U.S. munitions list, exempt from state and local sales and use tax.
- 447.708. Tax credits, criteria, conditions — definitions.
- 620.1878. Definitions.
- 620.1881. Project notice of intent, department to respond with a proposal or a rejection — benefits available — effect on withholding tax — projects eligible for benefits — annual report — cap on tax credits — allocation of tax credits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.105, 67.1501, 67.1545, 94.900, 94.902, 99.820, 135.815, 135.967, 137.115, 447.708, 620.1878, and 620.1881, RSMo, section 99.825 as enacted by senate committee substitute for house committee substitute for house bill no. 741, ninety-fourth general assembly, first regular session, and section 99.825 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 32.105, 67.1501, 67.1545, 94.900, 94.902, 99.820, 99.825, 135.682, 135.815, 135.967, 137.115, 144.057, 447.708, 620.1878, and 620.1881, to read as follows:

32.105. DEFINITIONS. — As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Percent of State or Geographic Area Family	
Size of Household	Median Income
One Person	35%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair

services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed [four] ~~six~~ million dollars from within any one fiscal year's allocation[, except that for fiscal years 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six million dollars]. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Homeless assistance pilot project", the program established pursuant to section 32.117;

(12) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

(13) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

(14) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

(16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

67.1501. FUNDING OF DISTRICT. — 1. A district may use any one or more of the assessments, taxes, or other funding methods specifically authorized pursuant to sections 67.1401 to 67.1571 to provide funds to accomplish any power, duty or purpose of the district; provided, however, no district which is located in any city not within a county and which includes any real property that is also included in a special business district established pursuant to sections 71.790 to 71.808, RSMo, prior to the establishment of the district pursuant to sections 67.1401 to 67.1571 shall have the authority to impose any such tax or assessment pursuant to sections 67.1401 to 67.1571 until such time as all taxes or special assessments imposed pursuant to sections 71.790 to 71.808, RSMo, on any real property or on any business located in such special business district or on any business or individual doing business in such special business district have been repealed in accordance with this subsection. The governing body of a special business district which includes real property located in a district established pursuant to sections 67.1401 to 67.1571 shall have the power to repeal all taxes and assessments imposed pursuant to sections 71.790 to 71.808, RSMo, and such power may be exercised by the adoption of a resolution by the governing body of such special business district. Upon the adoption of such resolution such special business district shall no longer have the power to impose any tax or special assessment pursuant to sections 71.790 to 71.808, RSMo, until such time as the district or districts established pursuant to sections 67.1401 to 67.1571 which include any real property that is also included in such special business district have been terminated or have expired pursuant to sections 67.1401 to 67.1571].

2. A district may establish different classes of real property within the district for purposes of special assessments. The levy rate for special assessments may vary for each class or subclass based on the level of benefit derived from services or improvements funded, provided or caused to be provided by the district.

3. Notwithstanding anything in sections 67.1401 to 67.1571 to the contrary, any district which is not a political subdivision shall have no power to levy any tax but shall have the power to levy special assessments in accordance with section 67.1521.

67.1545. SALES AND USE TAX AUTHORIZED IN CERTAIN DISTRICTS — PROCEDURE TO ADOPT, BALLOT LANGUAGE, IMPOSITION AND COLLECTION BY RETAILERS — PENALTIES FOR VIOLATIONS — DEPOSIT INTO TRUST FUND, USE — REPEAL PROCEDURE. — 1. Any district formed as a political subdivision may impose by resolution a district sales and use tax on all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors and sales to or by public utilities and providers of communications, cable, or video services. Any sales and use tax imposed pursuant to this section may be imposed in increments of one-eighth of one percent, up to a maximum of one percent. Such district sales and use tax may be imposed for any district purpose designated by the district in its ballot of submission to its qualified voters; except that, no resolution adopted pursuant to this section shall become effective unless the board of directors of the district submits to the qualified voters of the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters are opposed to the sales tax, then the resolution is void.

2. The ballot shall be substantially in the following form:

Shall the (insert name of district) Community Improvement District impose a community improvement districtwide sales and use tax at the maximum rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for (insert general description of the purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

3. Within ten days after the qualified voters have approved the imposition of the sales and use tax, the district shall, in accordance with section 32.087, RSMo, notify the director of the department of revenue. The sales and use tax authorized by this section shall become effective on the first day of the second calendar quarter after the director of the department of revenue receives notice of the adoption of such tax.

4. The director of the department of revenue shall collect any tax adopted pursuant to this section pursuant to section 32.087, RSMo.

5. In each district in which a sales and use tax is imposed pursuant to this section, every retailer shall add such additional tax imposed by the district to such retailer's sale price, and when so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

6. In order to allow retailers to collect and report the sales and use tax authorized by this section as well as all other sales and use taxes required by law in the simplest and most efficient manner possible, a district may establish appropriate brackets to be used in the district imposing a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to violations of this section.

8. All revenue received by the district from a sales and use tax imposed pursuant to this section which is designated for a specific purpose shall be deposited into a special trust fund and expended solely for such purpose. Upon the expiration of any sales and use tax adopted pursuant to this section, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the resolution adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors pursuant to applicable laws relating to the investment of other district funds.

9. A district may repeal by resolution any sales and use tax imposed pursuant to this section before the expiration date of such sales and use tax unless the repeal of such sales and use tax will impair the district's ability to repay any liabilities the district has incurred, moneys the district has borrowed or obligation the district has issued to finance any improvements or services rendered for the district.

10. Notwithstanding the provisions of chapter 115, RSMo, an election for a district sales and use tax under this section shall be conducted in accordance with the provisions of this section.

94.900. SALES TAX AUTHORIZED (EXCELSIOR SPRINGS, HARRISONVILLE) — PROCEEDS TO BE USED FOR PUBLIC SAFETY PURPOSES — BALLOT LANGUAGE — COLLECTION OF TAX, PROCEDURE. — 1. The governing body of any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, **or any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants,** is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or

state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of (city's name) impose a citywide sales tax of (insert amount) for the purpose of improving the public safety of the city?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal submitted pursuant to this subsection, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second **calendar** quarter [immediately following the election approving the proposal] **after the director of revenue receives notification of adoption of the local sales tax**. If a proposal receives less than the required majority, then the governing body of the city shall have no power to impose the sales tax herein authorized unless and until the governing body of the city shall again have submitted another proposal to authorize the governing body of the city to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section.

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created [in the state treasury], to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may [authorize the state treasurer to] make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of

two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

94.902. SALES TAX AUTHORIZED FOR CERTAIN CITIES (GLADSTONE, RAYTOWN) — BALLOT, EFFECTIVE DATE — ADMINISTRATION AND COLLECTION — REFUNDS, USE OF FUNDS UPON ESTABLISHMENT OF TAX — REPEAL. — 1. The governing body of any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants, **or any city of the fourth classification with more than thirty thousand three hundred but fewer than thirty thousand seven hundred inhabitants**, may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144, RSMo. The tax authorized in this section may be imposed in an amount of up to one-half of one percent, and shall be imposed solely for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the city submits to the voters residing within the city, at a county or state general, primary, or special election, a proposal to authorize the governing body of the city to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall the city of (city's name) impose a citywide sales tax at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments to the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become effective unless the proposal is resubmitted under this section to the qualified voters and such proposal is approved by a majority of the qualified voters voting on the proposal. However, in no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

3. Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the

contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director shall keep accurate records of the amount of money in the trust **fund** and which was collected in each city imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax. Such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The director of the department of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the action at least ninety days before the effective date of the repeal, and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

5. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

99.820. MUNICIPALITIES' POWERS AND DUTIES — COMMISSION APPOINTMENT AND POWERS — PUBLIC DISCLOSURE REQUIREMENTS — OFFICIALS' CONFLICT OF INTEREST, PROHIBITED. — 1. A municipality may:

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

(2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;

(3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of, land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the municipality or the commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the municipality, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the governing body of the municipality. Each municipality or its commission shall establish written procedures relating to bids and proposals for implementation of the redevelopment projects. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development of property shall be made without making public disclosure of the terms of the disposition and all bids and proposals made in response to the municipality's request. Such procedures for obtaining such bids and proposals shall provide reasonable opportunity for any person to submit alternative proposals or bids;

(4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;

(5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;

(6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;

(7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;

(8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;

(9) Acquire and construct public facilities within a redevelopment area;

(10) Incur redevelopment costs and issue obligations;

(11) Make payment in lieu of taxes, or a portion thereof, to taxing districts;

(12) Disburse surplus funds from the special allocation fund to taxing districts as follows:

(a) Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;

(b) Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;

(c) Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 **or** 3 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

(14) Charge as a redevelopment cost the reasonable costs incurred by its clerk or other official in administering the redevelopment project. The charge for the clerk's or other official's costs shall be determined by the municipality based on a recommendation from the commission, created pursuant to this section.

2. Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the municipality shall create a commission of nine persons if the municipality is a county or a city not within a county and not a first class county with a charter form of government with a population in excess of nine hundred thousand, and eleven persons if the municipality is not a county and not in a first class county with a charter form of government having a population of more than nine hundred thousand, and twelve persons if the municipality is located in or is a first class county with a charter form of government having a population of more than nine hundred thousand, to be appointed as follows:

(1) In all municipalities two members shall be appointed by the school boards whose districts are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

(3) In all municipalities six members shall be appointed by the chief elected officer of the municipality, with the consent of the majority of the governing body of the municipality;

(4) In all municipalities which are not counties and not in a first class county with a charter form of government having a population in excess of nine hundred thousand, two members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(5) In a municipality which is a county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(6) In a municipality which is located in the first class county with a charter form of government having a population in excess of nine hundred thousand, three members shall be appointed by the county of such municipality in the same manner as members are appointed in subdivision (3) of this subsection;

(7) [Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9)] At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments. **Members appointed by the county executive or presiding commissioner prior to August 28, 2008, shall continue their service on the commission established in subsection 3 of this section without further appointment unless the county executive or presiding commissioner appoints a new member or members.**

3. [The commission] **Beginning August 28, 2008:**

(1) In lieu of a commission created under subsection 2 of this section, any city, town, or village in a county with a charter form of government and with more than one million inhabitants, in a county with a charter form of government and with more than two

hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, or in a county of the first classification with more than one hundred eighty-five thousand but fewer than two hundred thousand inhabitants shall, prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, create a commission consisting of twelve persons to be appointed as follows:

(a) Six members appointed either by the county executive or presiding commissioner; notwithstanding any provision of law to the contrary, no approval by the county's governing body shall be required;

(b) Three members appointed by the cities, towns, or villages in the county which have tax increment financing districts in a manner in which the chief elected officials of such cities, towns, or villages agree;

(c) Two members appointed by the school boards whose districts are included in the county in a manner in which the school boards agree; and

(d) One member to represent all other districts levying ad valorem taxes in the proposed redevelopment area in a manner in which all such districts agree. No city, town, or village subject to this subsection shall create or maintain a commission under subsection 2 of this section, except as necessary to complete a public hearing for which notice under section 99.830 has been provided prior to August 28, 2008, and to vote or make recommendations relating to redevelopment plans, redevelopment projects, or designation of redevelopment areas, or amendments thereto that were the subject of such public hearing;

(2) Members appointed to the commission created under this subsection, except those six members appointed by either the county executive or presiding commissioner, shall serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan, or designation of a redevelopment area is considered for approval by the commission. The six members appointed by either the county executive or the presiding commissioner shall serve on all such commissions until replaced. The city, town, or village that creates a commission under this subsection shall send notice thereof by certified mail to the county executive or presiding commissioner, to the school districts whose boundaries include any portion of the proposed redevelopment area, and to the other taxing districts whose boundaries include any portion of the proposed redevelopment area. The city, town, or village that creates the commission shall also be solely responsible for notifying all other cities, towns, and villages in the county that have tax increment financing districts and shall exercise all administrative functions of the commission. The school districts receiving notice from the city, town, or village shall be solely responsible for notifying the other school districts within the county of the formation of the commission. If the county, school board, or other taxing district fails to appoint members to the commission within thirty days after the city, town, or village sends the written notice, as provided herein, that it has convened such a commission or within thirty days of the expiration of any such member's term, the remaining duly appointed members of the commission may exercise the full powers of the commission.

4. (1) Any commission created under this section, subject to approval of the governing body of the municipality, may exercise the powers enumerated in sections 99.800 to 99.865, except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 99.825 and 99.830. [The]

(2) Any commission created under subsection 2 of this section shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within thirty days following completion of the hearing on any such plan, project or designation and shall make recommendations to the governing body within ninety days of the hearing referred to in section 99.825 concerning the adoption of or amendment to

redevelopment plans and redevelopment projects and the designation of redevelopment areas. The requirements of subsection 2 of this section and this subsection shall not apply to redevelopment projects upon which the required hearings have been duly held prior to August 31, 1991.

(3) Any commission created under subsection 3 of this section shall, within fifteen days of the receipt of a redevelopment plan meeting the minimum requirements of section 99.810, as determined by counsel to the city, town, or village creating the commission and a request by the applicable city, town, or village for a public hearing, fix a time and place for the public hearing referred to in section 99.825. The public hearing shall be held no later than seventy-five days from the commission's receipt of such redevelopment plan and request for public hearing. The commission shall vote and make recommendations to the governing body of the city, town, or village requesting the public hearing on all proposed redevelopment plans, redevelopment projects, and designations of redevelopment areas, and amendments thereto within thirty days following the completion of the public hearing. If the commission fails to vote within thirty days following the completion of the public hearing referred to in section 99.825 concerning the proposed redevelopment plan, redevelopment project, or designation of redevelopment area, or amendments thereto, such plan, project, designation, or amendment thereto shall be deemed rejected by the commission.

99.825. ADOPTION OF ORDINANCE FOR REDEVELOPMENT, PUBLIC HEARING REQUIRED — OBJECTION PROCEDURE — HEARING AND NOTICES NOT REQUIRED, WHEN — RESTRICTIONS ON CERTAIN PROJECTS. — 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing **as required in subsection 4 of section 99.820** and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing; **provided, if the commission is created under subsection 3 of section 99.820, the hearing shall not be continued for more than thirty days beyond the date on which it is originally opened unless such longer period is requested by the chief elected official of the municipality creating the commission and approved by a majority of the commission.** Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a

redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.

[99.825. ADOPTION OF ORDINANCE FOR REDEVELOPMENT, PUBLIC HEARING REQUIRED — OBJECTION PROCEDURE — HEARING AND NOTICES NOT REQUIRED, WHEN — RESTRICTIONS ON CERTAIN PROJECTS. — 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission shall fix a time and place for a public hearing and notify each taxing district located wholly or partially within the boundaries of the proposed redevelopment area, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.]

135.682. LETTER RULINGS TO BE ISSUED, PROCEDURE — LETTER RULINGS CLOSED RECORDS. — 1. The director of the department of economic development or the director's designee shall issue letter rulings regarding the tax credit program authorized

under section 135.680, subject to the terms and conditions set forth in this section. The director of the department of economic development may impose additional terms and conditions consistent with this section to requests for letter rulings by regulation promulgated under chapter 536, RSMo. For the purposes of this section, the term "letter ruling" means a written interpretation of law to a specific set of facts provided by the applicant requesting a letter ruling.

2. The director or director's designee shall respond to a request for a letter ruling within sixty days of receipt of such request. The applicant may provide a draft letter ruling for the department's consideration. The applicant may withdraw the request for a letter ruling, in writing, prior to the issuance of the letter ruling. The director or the director's designee may refuse to issue a letter ruling for good cause, but must list the specific reasons for refusing to issue the letter ruling. Good cause includes, but is not limited to:

- (1) The applicant requests the director to determine whether a statute is constitutional or a regulation is lawful;
- (2) The request involves a hypothetical situation or alternative plans;
- (3) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling; and
- (4) The issue is currently being considered in a rulemaking procedure, contested case, or other agency or judicial proceeding that may definitely resolve the issue.

3. Letter rulings shall bind the director and the director's agents and their successors until such time as the taxpayer or its shareholders, members, or partners, as applicable, claim all of such tax credits on a Missouri tax return, subject to the terms and conditions set forth in properly published regulations. The letter ruling shall apply only to the applicant.

4. Letter rulings issued under the authority of this section shall not be a rule as defined in section 536.010, RSMo, in that it is an interpretation issued by the department with respect to a specific set of facts and intended to apply only to that specific set of facts, and therefore shall not be subject to the rulemaking requirements of chapter 536, RSMo.

5. Information in letter ruling requests as described in section 620.014, RSMo, shall be closed to the public. Copies of letter rulings shall be available to the public provided that the applicant identifying information and otherwise protected information is redacted from the letter ruling as provided in subsection 1 of section 610.024, RSMo.

135.815. VERIFICATION OF APPLICANT'S TAX PAYMENT STATUS, WHEN, EFFECT OF DELINQUENCY — EMPLOYMENT OF UNAUTHORIZED ALIENS, EFFECT OF. — 1. Prior to authorization of any tax credit application, an administering agency shall verify through the department of revenue that the tax credit applicant does not owe any delinquent income, sales, or use taxes, or interest or penalties on such taxes, and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance concludes that a taxpayer is delinquent after June fifteenth but before July first of any year, and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits towards a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

2. Any applicant of a tax credit program contained in the definition of the term "all tax credit programs" who purposely and directly employs unauthorized aliens shall forfeit any tax credits issued to such applicant which have not been redeemed, and shall repay the amount of any tax credits redeemed by such applicant during the period of time such unauthorized alien was employed by the applicant. As used in this subsection, the term "unauthorized alien" shall mean an alien who does not have the legal right or authorization under federal law to work in the United States, as defined under Section 8 U.S.C. 1324a(h)(3).

135.967. TAX CREDIT ALLOWED, DURATION — PROHIBITION ON RECEIVING OTHER TAX CREDITS — LIMITATIONS ON ISSUANCE OF TAX CREDITS — CAP — ELIGIBILITY OF CERTAIN EXPANSIONS — EMPLOYEE CALCULATIONS — COMPUTATION OF CREDIT — FLOW-THROUGH TAX TREATMENTS — CREDITS MAY BE CLAIMED, WHEN — CERTIFICATES — REFUNDS — VERIFICATION PROCEDURES. — 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to [135.268] **135.286**, or section 135.535, **and may not simultaneously receive tax credits under sections 620.1875 to 620.1890, RSMo, at the same facility.**

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than [fourteen] **twenty-four** million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred thousand dollars

and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (14) of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (14) of section 135.950, or subdivision (22) of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee who is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (14) of section 135.950 or subdivision (22) of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision (14) of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the

amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

14. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. **The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5 of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year.** The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective

approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

- (1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

- (2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this [paragraph] **subdivision**, the word "comparable" means that:

- (a) Such sale was closed at a date relevant to the property valuation; and

- (b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percentages of their true value in money:

- (1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

- (2) Livestock, twelve percent;

- (3) Farm machinery, twelve percent;

- (4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

- (5) Poultry, twelve percent; and

- (6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

- (1) For real property in subclass (1), nineteen percent;
- (2) For real property in subclass (2), twelve percent; and
- (3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection

11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

144.057. ALL TANGIBLE PERSONAL PROPERTY ON U.S. MUNITIONS LIST, EXEMPT FROM STATE AND LOCAL SALES AND USE TAX. — In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.

447.708. TAX CREDITS, CRITERIA, CONDITIONS — DEFINITIONS. — 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is "a person difficult to employ" as defined by section 135.240, RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4) of subsection 1 of section 135.225, RSMo;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo, which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section, shall not affect requirements for the prospective purchaser to obtain the approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. (1) The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing

operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo. **The tax credit may also include up to one hundred percent of the costs of demolition that are not directly part of the remediation activities, provided that the demolition is on the property where the voluntary remediation activities are occurring, the demolition is necessary to accomplish the planned use of the facility where the remediation activities are occurring, and the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development. The demolition may occur on an adjacent property if the project is located in a municipality which has a population less than twenty thousand and the above conditions are otherwise met. The adjacent property shall independently qualify as abandoned or underutilized. The amount of the credit available for demolition not associated with remediation can not exceed the total amount of credits approved for remediation including demolition required for remediation.**

(2) [The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits otherwise allowed in this section, grant a demolition tax credit to the applicant for up to one hundred percent of the costs of demolition that are not part of the voluntary remediation activities, provided that the demolition is either on the property where the voluntary remediation activities are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development.

(3)] The amount of remediation [and demolition] tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

[(4)] (3) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation [and demolition] tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

[(5)] (4) The project facility shall be projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development, to be eligible for tax credits pursuant to this section.

[(6)] (5) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility.

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any

condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

- (1) That portion of the taxpayer's income attributed to the eligible project; or
- (2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as

assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership.

The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

620.1878. DEFINITIONS. — For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

- (1) "Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;
- (2) "Average wage", the new payroll divided by the number of new jobs;
- (3) "Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the approval;
- (4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;
- (5) "Department", the Missouri department of economic development;
- (6) "Director", the director of the department of economic development;
- (7) "Employee", a person employed by a qualified company;
- (8) "Full-time employee", an employee of the qualified company that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;
- (9) "High-impact project", a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;

(10) "Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision;

(11) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(12) "New direct local revenue", the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision;

(13) "New investment", the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs;

(14) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;

(15) "New payroll", the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll;

(16) "Notice of intent", a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company's intent to hire new jobs and request benefits under this program;

(17) "Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;

(18) "Program", the Missouri quality jobs program provided in sections 620.1875 to 620.1890;

(19) "Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within one mile of each other **or within the same county** such that their purpose and operations are interrelated;

(20) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the notice of intent;

(21) "Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;

(22) "Project period", the time period that the benefits are provided to a qualified company;

(23) "Qualified company", a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

- (a) Gambling establishments (NAICS industry group 7132);
- (b) Retail trade establishments (NAICS sectors 44 and 45);
- (c) Food and drinking places (NAICS subsector 722);
- (d) Public utilities (NAICS 221 including water and sewer services);
- (e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state;
- (f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection;
- (g) Educational services (NAICS sector 61);
- (h) Religious organizations (NAICS industry group 8131); [or]
- (i) Public administration (NAICS sector 92);
- (j) Ethanol distillation or production; or**
- (k) Biodiesel production.**

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

(24) **"Qualified renewable energy sources" shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:**

- (a) Open-looped biomass;**
- (b) Close-looped biomass;**
- (c) Solar;**
- (d) Wind;**
- (e) Geothermal; and**
- (f) Hydropower;**

(25) "Related company" means:

- (a) A corporation, partnership, trust, or association controlled by the qualified company;
- (b) An individual, corporation, partnership, trust, or association in control of the qualified company; or

(c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, control of a corporation shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, control of a partnership or association shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, control of a trust shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(25)] (26) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;

[(26)] (27) "Related facility base employment", the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;

[(27)] (28) "Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department;

[(28)] (29) "Rural area", a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census;

[(29)] (30) "Small and expanding business project", a qualified company that within two years of the date of the approval creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility;

[(30)] (31) "Tax credits", tax credits issued by the department to offset the state income taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided for in this program;

[(31)] (32) "Technology business project", a qualified company that within two years of the date of the approval creates a minimum of ten new jobs involved in the operations of a [technology] company:

(a) **Which is a technology company**, as determined by a regulation promulgated by the department under the provisions of section 620.1884 or classified by NAICS codes;

(b) **Which owns or leases a facility which produces electricity derived from qualified renewable energy sources, or produces fuel for the generation of electricity from qualified renewable energy sources, but does not include any company that has received the alcohol mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax year; or**

(c) Which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices;

[(32)] (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo. For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.

620.1881. PROJECT NOTICE OF INTENT, DEPARTMENT TO RESPOND WITH A PROPOSAL OR A REJECTION — BENEFITS AVAILABLE — EFFECT ON WITHHOLDING TAX — PROJECTS ELIGIBLE FOR BENEFITS — ANNUAL REPORT — CAP ON TAX CREDITS — ALLOCATION OF TAX CREDITS. — 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government. Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed an approval for the purposes of this section. A qualified company who is provided an approval for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved

and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original approval for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new approval.

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not simultaneously receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this subdivision. The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

3. The types of projects and the amount of benefits to be provided are:

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax as calculated under subdivision (32) of section 620.1878 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds the county average wage or for a period of five years from the date the required number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred twenty percent of the county average wage;

(2) Technology business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to a maximum of five percent of new payroll for a period of five years from the date the required number of jobs were created from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average wage of the new payroll equals or exceeds the county average wage. An additional one-half percent of new payroll may be added to the five percent maximum if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located, plus an additional one-half percent of new payroll may be added if the average wage of the new payroll in any year exceeds one hundred forty

percent of the average wage in the county in which the project facility is located. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is five hundred thousand dollars;

(3) High impact projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount from the withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage of the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a project or combination of projects may be increased up to one million dollars if the number of new jobs will exceed five hundred and if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the project;

(4) Job retention projects: a qualified company may receive a tax credit for the retention of jobs in this state, provided the qualified company and the project meets all of the following conditions:

(a) For each of the twenty-four months preceding the year in which application for the program is made the qualified company must have maintained at least one thousand full-time employees at the employer's site in the state at which the jobs are based, and the average wage of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until

such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, [2007] **2013;**

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by floodwater rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time.

The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in an annual report is below the minimum for high impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

5. The maximum calendar year annual tax credits issued for the entire program shall not exceed [forty] **sixty** million dollars. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program.

6. The department shall allocate the annual tax credits based on the date of the approval, reserving such tax credits based on the department's best estimate of new jobs and new payroll of the project, and the other factors in the determination of benefits of this program. However, the annual issuance of tax credits is subject to the annual verification of the actual new payroll. The allocation of tax credits for the period assigned to a project shall expire if, within two years from the date of commencement of operations, or approval if applicable, the minimum thresholds have not been achieved. The qualified company may retain authorized amounts from the withholding tax under this section once the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the minimum new jobs thresholds. In the event the qualified company does not meet the minimum new job threshold, the qualified company may submit a new notice of intent or the department may provide a new approval for a new project of the qualified company at the project facility or other facilities.

7. For a qualified company with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the qualified company's tax period.

8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed within one year of the close of the taxable year for which they were issued, except as provided under subdivision (4) of subsection 3 of this section.

9. Tax credits authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department.

10. Prior to the issuance of tax credits, the department shall verify through the department of revenue, or any other state department, that the tax credit applicant does not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any state department and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that at issuance credits shall be first applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but before July first of any year and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a tax delinquency, the administering agency shall notify the appropriate department and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

11. Except as provided under subdivision (4) of subsection 3 of this section, the director of revenue shall issue a refund to the qualified company to the extent that the amount of credits allowed in this section exceeds the amount of the qualified company's income tax.

12. An employee of a qualified company will receive full credit for the amount of tax withheld as provided in section 143.211, RSMo.

13. If any provision of sections 620.1875 to 620.1890 or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections which can be given effect without the invalid provisions or application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared severable.

Approved June 16, 2008

SB 720 [CCS#2 HCS SCS SB 720]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a hot weather rule for maintenance of utility service

AN ACT to repeal sections 660.115 and 660.135, RSMo, and to enact in lieu thereof nineteen new sections relating to utilities, with penalty provisions.

SECTION

- A. Enacting clause.
- 260.1050. Citation of act.
- 260.1053. Definitions.
- 260.1059. Applicability of act — exceptions.
- 260.1062. Recovery plan required, contents — use of existing infrastructure permitted — report required.
- 260.1065. Labeling requirements for sale of new equipment.
- 260.1068. Information on computer materials, immunity from liability, when.
- 260.1071. Department to educate consumers — Internet site required.
- 260.1074. Audits and inspections by department permitted — enforcement of act — warning notices — penalties may be assessed, subaccount created.
- 260.1077. Financial and proprietary information not a public record.
- 260.1080. Report to legislative committees.
- 260.1083. Fee not authorized, when.
- 260.1089. Recycling and reuse, compliance with federal, state and local law required — rulemaking authority.
- 260.1092. Federal law may preempt, when.
- 260.1101. Rulemaking authority.
- 393.108. Hot weather rule, discontinuance of service prohibited, when.
- 393.171. Incorporation and franchises, permission and approval after instruction and acquisition of plant permitted, when — expiration date.
- 393.1150. Suit or claim brought, measure of damages.
- 660.115. Utilicare payment, procedure.
- 660.135. Expenditures — utilicare stabilization fund.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 660.115 and 660.135, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 260.1050, 260.1053, 260.1059, 260.1062, 260.1065, 260.1068, 260.1071, 260.1074, 260.1077, 260.1080, 260.1083, 260.1089, 260.1092, 260.1101, 393.108, 393.171, 393.1150, 660.115 and 660.135, to read as follows:

260.1050. CITATION OF ACT. — Sections 260.1050 to 260.1101 may be cited as the "Manufacturer Responsibility and Consumer Convenience Equipment Collection and Recovery Act".

260.1053. DEFINITIONS. — As used in sections 260.1050 to 260.1101, the following terms mean:

- (1) "Brand", the name, symbol, logo, trademark, or other information that identifies a product rather than the components of the product;
- (2) "Computer materials", a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner;
- (3) "Consumer", an individual who uses equipment that is purchased primarily for personal or home business use;
- (4) "Department", department of natural resources;
- (5) "Equipment", computer materials;
- (6) "Manufacturer", a person:
 - (a) Who manufactures or manufactured equipment under a brand that:
 - a. The person owns or owned; or
 - b. The person is or was licensed to use, other than under a license to manufacture equipment for delivery exclusively to or at the order of the licensor;
 - (b) Who sells or sold equipment manufactured by others under a brand that:
 - a. The person owns or owned; or
 - b. The person is or was licensed to use, other than under a license to manufacture equipment for delivery exclusively to or at the order of the licensor;
 - (c) Who manufactures or manufactured equipment without affixing a brand;

(d) Who manufactures or manufactured equipment to which the person affixes or affixed a brand that:

- a. The person does not or has not owned; or
- b. The person is not or was not licensed to use; or

(e) Who imports or imported equipment manufactured outside the United States into the United States unless at the time of importation the company or licensee that sells or sold the equipment to the importer has or had assets or a presence in the United States sufficient to be considered the manufacturer.

260.1059. APPLICABILITY OF ACT — EXCEPTIONS. — 1. The collection, recycling, and reuse provisions of sections 260.1050 to 260.1101 apply to equipment used and returned to the manufacturer by a consumer in this state and do not impose any obligation on an owner or operator of a solid waste facility.

2. Sections 260.1050 to 260.1101 do not apply to:

(1) Any computer material that is an electronic device that is a part of a motor vehicle or any part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) Any electronic device that is functionally or physically a part of, connected to or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including diagnostic, monitoring, or other medical products as that term is defined under the federal Food, Drug, and Cosmetic Act or equipment used for security, sensing, monitoring, or anti-terrorism purposes;

(3) A covered electronic device that is contained within a clothes washer, clothes dryer, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier;

(4) Telephone of any type, including mobile telephones and wireless devices;

(5) A personal digital assistant or P.D.A.;

(6) A consumer's lease of equipment or a consumer's use of equipment under a lease agreement; or

(7) The sale or lease of equipment to an entity when the manufacturer and the entity enter into a contract that effectively addresses the collection, recycling, and reuse of equipment that has reached the end of its useful life.

260.1062. RECOVERY PLAN REQUIRED, CONTENTS — USE OF EXISTING INFRASTRUCTURE PERMITTED — REPORT REQUIRED. — 1. Before a manufacturer may offer equipment for sale in this state, the manufacturer shall:

(1) Adopt and implement a recovery plan;

(2) Submit a written copy of the recovery plan to the department; and

(3) Affix a permanent, readily visible label to the equipment with the manufacturer's brand.

2. The recovery plan shall enable a consumer to recycle equipment without paying a separate fee at the time of recycling and shall include provisions for:

(1) The manufacturer's collection from a consumer of any equipment that has reached the end of its useful life and is labeled with the manufacturer's brand; and

(2) Recycling or reuse of equipment collected under subdivision (1) of this subsection.

3. The collection of equipment provided under the recovery plan shall be:

(1) Reasonably convenient and available to consumers in this state; and

(2) Designed to meet the collection needs of consumers in this state.

4. Examples of collection methods that alone or combined meet the convenience requirements of this section include a system:

(1) By which the manufacturer or the manufacturer's designee offers the consumer an option for returning equipment by mail at no charge to the consumer;

(2) Using a physical collection site that the manufacturer or the manufacturer's designee keeps open and staffed and to which the consumer may return equipment; and

(3) Using a collection event held by the manufacturer or the manufacturer's designee at which the consumer may return equipment.

5. Collection services under this section may use existing collection and consolidation infrastructure for handling equipment and may include systems jointly managed by a group of manufacturers, electronic recyclers and repair shops, recyclers of other commodities, reuse organizations, not-for-profit corporations, retailers, recyclers, and other suitable operations. If a manufacturer or its designee offers a mail-back system as described in subsection 4 of this section, either individually or by working together with a group of manufacturers or by working with others, it shall be deemed to meet the convenience requirements of this section.

6. The recovery plan shall include information for the consumer on how and where to return the manufacturer's equipment. The manufacturer:

(1) Shall include collection, recycling, and reuse information on the manufacturer's publicly available Internet site;

(2) Shall provide collection, recycling, and reuse information to the department; and

(3) May include collection, recycling, and reuse information in the packaging for or in other materials that accompany the manufacturer's equipment when the equipment is sold.

7. Information about collection, recycling, and reuse on a manufacturer's publicly available Internet site does not constitute a determination by the department that the manufacturer's recovery plan or actual practices are in compliance with sections 260.1050 to 260.1101 or other state or federal law.

8. Each manufacturer shall submit a report to the department not later than January thirty-first of each year that includes:

(1) The weight of equipment collected, recycled, and reused during the preceding calendar year; and

(2) Documentation certifying that the collection, recycling, and reuse of equipment during the preceding calendar year was conducted in a manner that complies with section 260.1089 regarding sound environmental management.

9. If more than one person is a manufacturer of a certain brand of equipment as defined by section 260.1053, any of those persons may assume responsibility for and satisfy the obligations of a manufacturer under sections 260.1050 to 260.1101 for that brand. If none of those persons assumes responsibility or satisfies the obligations of a manufacturer for the equipment of that brand, the department may consider any of those persons to be the responsible manufacturer for purposes of sections 260.1050 to 260.1101.

10. The obligations under sections 260.1050 to 260.1101 of a manufacturer who manufactures or manufactured equipment, or sells or sold equipment manufactured by others, under a brand that was previously used by a different person in the manufacture of the equipment extends to all equipment bearing that brand regardless of its date of manufacture.

260.1065. LABELING REQUIREMENTS FOR SALE OF NEW EQUIPMENT. — 1. A person who is a retailer of equipment shall not sell or offer to sell new equipment in this state unless the equipment is labeled with the manufacturer's label and the manufacturer is included on the department's list of manufacturers that have recovery plans.

2. Retailers can go to the department's Internet site as outlined in section 260.1071 and view all manufacturers that are listed as having registered a collection program.

Covered electronic products from manufacturers on that list may be sold in or into this state.

3. A retailer is not required to collect equipment for recycling or reuse under sections 260.1050 to 260.1101.

260.1068. INFORMATION ON COMPUTER MATERIALS, IMMUNITY FROM LIABILITY, WHEN. — 1. A manufacturer or retailer of equipment is not liable in any way for information in any form that a consumer leaves on computer materials that are collected, recycled, or reused under sections 260.1050 to 260.1101.

2. The consumer is responsible for any information in any form left on the consumer's computer materials that are collected, recycled, or reused.

3. Compliance with sections 260.1050 to 260.1101 does not exempt a person from liability under other law.

260.1071. DEPARTMENT TO EDUCATE CONSUMERS — INTERNET SITE REQUIRED. —

1. The department shall educate consumers regarding the collection, recycling, and reuse of equipment.

2. The department shall host or designate another person to host an Internet site providing consumers with information about the recycling and reuse of equipment, including best management practices and information about and links to information on:

(1) Manufacturers' collection, recycling, and reuse programs, including manufacturers' recovery plans; and

(2) Equipment collection events, collection sites, and community equipment recycling and reuse programs.

260.1074. AUDITS AND INSPECTIONS BY DEPARTMENT PERMITTED — ENFORCEMENT OF ACT — WARNING NOTICES — PENALTIES MAY BE ASSESSED, SUBACCOUNT CREATED. —

1. The department may conduct audits and inspections to determine compliance with sections 260.1050 to 260.1101.

2. The department and the attorney general, as appropriate, shall enforce sections 260.1050 to 260.1101 and, except as provided by subsections 4 and 5 of this section, take enforcement action against any manufacturer, retailer, or person who recycles or reuses equipment for failure to comply with sections 260.1050 to 260.1101.

3. The attorney general may file suit to enjoin an activity related to the sale of equipment in violation of sections 260.1050 to 260.1101.

4. The department shall issue a written warning notice to a person upon the person's first violation of sections 260.1050 to 260.1101. The person shall comply with sections 260.1050 to 260.1101 not later than the sixtieth day after the date the warning notice is issued.

5. A retailer who receives a warning notice from the department that the retailer's inventory violates sections 260.1050 to 260.1101 because it includes equipment from a manufacturer that has not submitted the recovery plan required by section 260.1062 shall bring the inventory into compliance with sections 260.1050 to 260.1101 not later than the sixtieth day after the date the warning notice is issued.

6. (1) The department may assess a penalty against a manufacturer that does not label its equipment or adopt, implement, or submit a recovery plan as required by section 260.1062. No penalty shall be assessed for a first violation and the amount of the penalty shall not exceed ten thousand dollars for the second violation or twenty-five thousand dollars for each subsequent violation.

(2) Any penalty collected under this section shall be credited to the "Equipment Recycling Subaccount", which is hereby created, in the hazardous waste fund. Moneys in the subaccount shall be used for the purpose of administering the provisions of sections

260.1050 to 260.1101. The state treasurer shall be custodian of the subaccount and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the subaccount shall be used solely for the administration of sections 260.1050 to 260.1101. Any moneys remaining in the subaccount at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the subaccount.

260.1077. FINANCIAL AND PROPRIETARY INFORMATION NOT A PUBLIC RECORD. — Financial or proprietary information submitted to the department under sections 260.1050 to 260.1101 shall not be considered a public record under chapter 610, RSMo.

260.1080. REPORT TO LEGISLATIVE COMMITTEES. — The department shall compile information from manufacturers and issue an electronic report to the committee in each house of the general assembly having primary jurisdiction over environmental matters not later than March first of each year.

260.1083. FEE NOT AUTHORIZED, WHEN. — Sections 260.1050 to 260.1101 do not authorize the department to impose a fee, including a recycling fee or registration fee, on a consumer, manufacturer, retailer, or person who recycles or reuses equipment.

260.1089. RECYCLING AND REUSE, COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW REQUIRED — RULEMAKING AUTHORITY. — 1. All equipment collected under sections 260.1050 to 260.1101 shall be recycled or reused in a manner that complies with federal, state, and local law.

2. The department shall, by rule, adopt as mandatory standards for recycling or reuse of equipment in this state the standards provided by "Electronics Recycling Operating Practices" as approved by the board of directors of the Institute of Scrap Recycling Industries, Inc., April 25, 2006, or other standards issued from the U.S. Environmental Protection Agency, if available.

260.1092. FEDERAL LAW MAY PREEMPT, WHEN. — 1. If federal law establishes a national program for the collection and recycling of equipment and the department determines that the federal law substantially meets the purposes of sections 260.1050 to 260.1101, the department may adopt an agency statement that interprets the federal law as preemptive of sections 260.1050 to 260.1101.

2. Sections 260.1050 to 260.1101 shall expire on the date the department issues a statement under this section.

260.1101. RULEMAKING AUTHORITY. — 1. The department shall adopt any rules required to implement sections 260.1050 to 260.1101 not later than July 1, 2009. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

2. Sections 260.1050 to 260.1101 shall not be enforced before rules developed under this section are promulgated.

3. It shall not be considered a violation of sections 260.1050 to 260.1101 for a retailer to sell any inventory accrued before the effective date of sections 260.1050 to 260.1101.

393.108. HOT WEATHER RULE, DISCONTINUANCE OF SERVICE PROHIBITED, WHEN. — For purposes of this section, the hot weather rule shall mean the period of time from June first to September thirtieth, in which the discontinuance of gas and electric service to all residential users, including all residential tenants of apartment buildings, for nonpayment of bills where gas or electricity is used as the source of cooling or to operate the only cooling equipment at the residence, is prohibited in the following situations:

(1) On any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. for the following twenty-four hours predicts that the temperature shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit;

(2) On any day when utility personnel are not available to reconnect utility service during the immediately succeeding day or days and the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. predicts that the temperature during the period of unavailability shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit; and

(3) In any other applicable situations provided for in rules established and amended by the public service commission.

393.171. INCORPORATION AND FRANCHISES, PERMISSION AND APPROVAL AFTER INSTRUCTION AND ACQUISITION OF PLANT PERMITTED, WHEN — EXPIRATION DATE. — 1. The commission shall have the authority to grant the permission and approval specified in section 393.170, after the construction or acquisition of any electric plant located in a first class county without a charter form of government has been completed if the commission determines that the grant of such permission and approval is necessary or convenient for the public service. Any such permission and approval shall, for all purposes, have the same effect as the permission and approval granted prior to such construction or acquisition. This subsection is enacted to clarify and specify the law in existence at all times since the original enactment of section 393.170.

2. No permission or approval granted for an electric plant by the commission under subsection 1 of this section, nor any special use permit issued for any such electric plant by the governing body of the county in which the electric plant is located, shall extinguish, render moot, or mitigate any suit or claim pending or otherwise allowable by law by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant. Expenses incurred by an electrical corporation in association with the payment of any such damages shall not be recoverable, in any form at any time, from the ratepayers of any such electrical corporation.

3. The commission's authority under subsection 1 of this section shall expire on August 28, 2009.

393.1150. SUIT OR CLAIM BROUGHT, MEASURE OF DAMAGES. — For any electric plant unlawfully constructed after August 28, 2008, in any suit or claim brought by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant, the measure of damages shall be treble the actual damages to the plaintiff's real estate proved as determined by a judge or jury, plus court costs and reasonable attorney fees.

660.115. UTILICARE PAYMENT, PROCEDURE. — 1. For each eligible household, an amount not exceeding [six] eight hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary heating source supplier, or both, including

suppliers of heating fuels, such as gas, electricity, wood, coal, propane and heating oil. For each eligible household, an amount not exceeding [six] **eight** hundred dollars for each fiscal year may be paid from the utilicare stabilization fund to the primary or secondary cooling source supplier, or both; provided that the respective shares of overall funding previously received by primary and secondary heating and cooling source suppliers on behalf of their customers shall be substantially maintained.

2. For an eligible household, other than a household located in publicly owned or subsidized housing, an adult boarding facility, an intermediate care facility, a residential care facility or a skilled nursing facility, whose members rent their dwelling and do not pay a supplier directly for the household's primary or secondary heating or cooling source, utilicare payments shall be paid directly to the head of the household, except that total payments shall not exceed eight percent of the household's annual rent or one hundred dollars, whichever is less.

660.135. EXPENDITURES — UTILICARE STABILIZATION FUND. — 1. The utilicare stabilization fund for any fiscal year shall be funded, subject to appropriations, by the general assembly. [Not more than five million dollars from state general revenue shall be appropriated by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 for the support of the utilicare program established by sections 660.100 to 660.136 for any fiscal year, except in succeeding years the amount of state funds may be increased by a percentage which reflects the national cost-of-living index or seven percent, whichever is lower.]

2. The department of social services [may] **shall**, in coordination with the department of natural resources, apply a portion of the funds appropriated annually by the general assembly to the utilicare stabilization fund established pursuant to section 660.136 to the low income weatherization assistance program of the department of natural resources; provided that any project financed with such funds shall be consistent with federal guidelines for the Weatherization Assistance Program for Low-Income Persons as authorized by 42 U.S.C. 6861.

Approved June 18, 2008

SB 724 [CCS HCS SCS SB 724]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Gives advanced practice registered nurses prescriptive authority for scheduled drugs

AN ACT to repeal sections 195.017, 195.070, 195.100, 195.417, 334.104, 335.016, and 335.076, RSMo, and to enact in lieu thereof eight new sections relating to controlled substances, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
- 195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually — electronic log of transactions to be maintained, when — certain products to be located behind pharmacy counter — exemption from requirements, when — rulemaking authority.
- 195.070. Who may prescribe.
- 195.100. Labeling requirements.
- 195.417. Limit on sale or dispensing of certain drugs, exceptions — violations, penalty.
- 334.104. Collaborative practice arrangements, form, contents, delegation of authority — rules, approval, restrictions — disciplinary actions — notice of collaborative practice or physician assistant agreements to board, when — certain nurses may provide anesthesia services, when — contract limitations.
- 335.016. Definitions.

- 335.019. Certificate of controlled substance prescriptive authority, issued when.
335.076. Titles, R.N., L.P.N., and APRN, who may use.
B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 195.017, 195.070, 195.100, 195.417, 334.104, 335.016, and 335.076, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 195.017, 195.070, 195.100, 195.417, 334.104, 335.016, 335.019, and 335.076, to read as follows:

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY — ELECTRONIC LOG OF TRANSACTIONS TO BE MAINTAINED, WHEN — CERTAIN PRODUCTS TO BE LOCATED BEHIND PHARMACY COUNTER — EXEMPTION FROM REQUIREMENTS, WHEN — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

- (1) Has high potential for abuse; and
- (2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

- (1) The controlled substances listed in this subsection are included in Schedule I;
- (2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (a) Acetyl-alpha-methylfentanyl;
- (b) Acetylmethadol;
- (c) Allylprodine;
- (d) Alphacetylmethadol;
- (e) Alphameprodine;
- (f) Alphamethadol;
- (g) Alpha-methylfentanyl;
- (h) Alpha-methylthiofentanyl;
- (i) Benzethidine;
- (j) Betacetylmethadol;
- (k) Beta-hydroxyfentanyl;
- (l) Beta-hydroxy-3-methylfentanyl;
- (m) Betameprodine;
- (n) Betamethadol;
- (o) Betaprodine;
- (p) Clonitazene;
- (q) Dextromoramide;
- (r) Diampromide;
- (s) Diethylthiambutene;
- (t) Difenoxin;
- (u) Dimenoxadol;
- (v) Dimepheptanol;
- (w) Dimethylthiambutene;
- (x) Dioxaphetyl butyrate;
- (y) Dipipanone;
- (z) Ethylmethylthiambutene;
- (aa) Etonitazene;
- (bb) Etixeridine;

- (cc) Furethidine;
- (dd) Hydroxypethidine;
- (ee) Ketobemidone;
- (ff) Levomoramide;
- (gg) Levophenacylmorphane;
- (hh) 3-Methylfentanyl;
- (ii) 3-Methylthiofentanyl;
- (jj) Morpheridine;
- (kk) MPPP;
- (ll) Noracymethadol;
- (mm) Norlevorphanol;
- (nn) Normethadone;
- (oo) Norpipanone;
- (pp) Para-fluorofentanyl;
- (qq) PEPAP;
- (rr) Phenadoxone;
- (ss) Phenampromide;
- (tt) Phenomorphan;
- (uu) Phenoperidine;
- (vv) Piritramide;
- (ww) Proheptazine;
- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
 - (b) Acetyldihydrocodeine;
 - (c) Benzylmorphine;
 - (d) Codeine methylbromide;
 - (e) Codeine-N-Oxide;
 - (f) Cyprenorphine;
 - (g) Desomorphine;
 - (h) Dihydromorphine;
 - (i) Drotebanol;
 - (j) Etorphine[; (except Hydrochloride Salt)] (**except hydrochloride salt**);
 - (k) Heroin;
 - (l) Hydromorphanol;
 - (m) Methyldesorphine;
 - (n) Methyldihydromorphine;
 - (o) Morphine methylbromide;
 - (p) Morphine [methyl sulfonate] **methylsulfonate**;
 - (q) Morphine-N-Oxide;
 - (r) [Morphine] **Myrophine**;
 - (s) Nicocodeine;
 - (t) Nicomorphine;
 - (u) Normorphine;
 - (v) Pholcodine;
-

- (w) Thebacon;
- (4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (a) [4-bromo-2,5-dimethoxyamphetamine] **4-bromo-2, 5-dimethoxyamphetamine;**
 - (b) 4-bromo-2, 5-dimethoxyphenethylamine;
 - (c) 2,5-dimethoxyamphetamine;
 - (d) 2,5-dimethoxy-4-ethylamphetamine;
 - (e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
 - (f) 4-methoxyamphetamine;
 - (g) 5-methoxy-3,4-methylenedioxyamphetamine;
 - (h) [4-methyl-2,5-dimethoxy amphetamine] **4-methyl-2, 5-dimethoxyamphetamine;**
 - (i) 3,4-methylenedioxyamphetamine;
 - (j) 3,4-methylenedioxymethamphetamine;
 - (k) 3,4-methylenedioxy-N-ethylamphetamine;
 - (l) [N-nydroxy-3, 4-methylenedioxyamphetamine] **hydroxy-3, 4-methylenedioxyamphetamine;**
 - (m) 3,4,5-trimethoxyamphetamine;
 - (n) Alpha-ethyltryptamine;
 - (o) [Benzylpiperazine or B.P.] **Alpha-methyltryptamine;**
 - (p) Bufotenine;
 - (q) Diethyltryptamine;
 - (r) Dimethyltryptamine;
 - (s) **5-methoxy-N,N-diisopropyltryptamine;**
 - (t) Ibogaine;
 - [(t)] (u) Lysergic acid diethylamide;
 - [(u)] (v) Marijuana[; (Marihuana)] **or marihuana;**
 - [(v)] (w) Mescaline;
 - [(w)] (x) Parahexyl;
 - [(x)] (y) Peyote, to include all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
 - [(y)] (z) N-ethyl-3-piperidyl benzilate;
 - [(z)] (aa) N-methyl-3-piperidyl benzilate;
 - [(aa)] (bb) Psilocybin;
 - [(bb)] (cc) Psilocyn;
 - [(cc)] (dd) Tetrahydrocannabinols **naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:**
 - a. 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - b. 6 cis or trans tetrahydrocannabinol, and their optical isomers;
 - c. 3,4 cis or trans tetrahydrocannabinol, and their optical isomers;
 - d. Any compounds of these structures, regardless of numerical designation of atomic positions covered;
 - [(dd)] (ee) Ethylamine analog of phencyclidine;
 - [(ee)] (ff) Pyrrolidine analog of phencyclidine;
 - [(ff)] (gg) Thiophene analog of phencyclidine;
 - [(gg)] 1-(3-Trifluoromethylphenyl)piperazine or TFMPP;]

- (hh) [1-(1-(2-thienyl)cyclohexyl)pyrrolidine] **1-[1-(2-thienyl)cyclohexyl]pyrrolidine**;
 - (ii) *Salvia divinorum*;
 - (jj) *Salvinorin A*;
 - (5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (a) [Gamma hydroxybutyric] **Gamma-hydroxybutyric acid**;
 - (b) *Mecloqualone*;
 - (c) *Methaqualone*;
 - (6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:
 - (a) *Aminorex*;
 - (b) **N-benzylpiperazine**
 - (c) *Cathinone*;
 - [(c)] (d) *Fenethylamine*;
 - [(d)] (e) *Methcathinone*;
 - [(e)] (f) [(+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)] **(+,-)-cis-4-methylaminorex ((+,-)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)**;
 - [(f)] (g) *N-ethylamphetamine*;
 - [(g)] (h) *N,N-dimethylamphetamine*;
 - (7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:
 - (a) [N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide] **N-(1-benzyl-4-piperidyl)-N-phenylpropanamide** (*benzylfentanyl*), its optical isomers, salts and salts of isomers;
 - (b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (*thenylfentanyl*), its optical isomers, salts and salts of isomers;
 - [(c)] *Alpha-Methyltryptamine*, or (*AMT*);
 - (d) *5-Methoxy-N,N-Diisopropyltryptamine*, or (*5-MeO-DIPT*);]
 - (8) *Khat*, to include all parts of the plant presently classified botanically as *catha edulis*, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.
3. The department of health and senior services shall place a substance in Schedule II if it finds that:
- (1) The substance has high potential for abuse;
 - (2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
 - (3) The abuse of the substance may lead to severe psychic or physical dependence.
4. The controlled substances listed in this subsection are included in Schedule II:
- (1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:
 - (a) *Opium* and *opiate* and any salt, compound, derivative or preparation of *opium* or *opiate*, excluding *apomorphine*, thebaine-derived *butorphanol*, *dextrorphan*, *nalbuphine*, *nalmefene*, *naloxone* and *naltrexone*, and their respective salts but including the following:
 - a. *Raw opium*;
 - b. *Opium extracts*;
 - c. *Opium fluid*;
 - d. *Powdered opium*;
 - e. *Granulated opium*;

- f. Tincture of opium;
- g. Codeine;
- h. Ethylmorphine;
- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;
- (b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;
- (c) Opium poppy and poppy straw;
- (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;
- (e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);
- (2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
 - (a) Alfentanil;
 - (b) Alphaprodine;
 - (c) Anileridine;
 - (d) Bezitramide;
 - (e) Bulk [Dextropropoxyphene] **dextropropoxyphene**;
 - (f) Carfentanil;
 - (g) Butyl nitrite;
 - (h) Dihydrocodeine;
 - (i) Diphenoxylate;
 - (j) Fentanyl;
 - (k) Isomethadone;
 - (l) Levo-alphacetylmethadol;
 - (m) Levomethorphan;
 - (n) Levorphanol;
 - (o) Metazocine;
 - (p) Methadone;
 - (q) Meperidine;
 - (r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
 - (s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;
 - (t) Pethidine (**meperidine**);
 - (u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
 - (v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
 - (w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 - (x) Phenazocine;
 - (y) Piminodine;
 - (z) Racemethorphan;
 - (aa) Racemorphan;

- (bb) **Remifentanyl;**
- (cc) Sufentanyl;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
 - (b) **Lisdexamfetamine, its salts, isomers, and salts of its isomers;**
 - (c) Methamphetamine, its salts, isomers, and salts of its isomers;
- [(c)] (d) Phenmetrazine and its salts;
- [(d)] (e) Methylphenidate;
- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (a) Amobarbital;
 - (b) Glutethimide;
 - (c) Pentobarbital;
 - (d) Phencyclidine;
 - (e) Secobarbital;
- (5) Any material[, compound] or compound which contains any quantity of nabilone;
- (6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
 - (b) Immediate precursors to phencyclidine (PCP):
 - a. 1-phenylcyclohexylamine;
 - b. 1-piperidinocyclohexanecarbonitrile (PCC).
- 5. The department of health and senior services shall place a substance in Schedule III if it finds that:
 - (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
- 6. The controlled substances listed in this subsection are included in Schedule III:
 - (1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
 - (a) Benzphetamine;
 - (b) Chlorphentermine;
 - (c) Clortermine;
 - (d) Phendimetrazine;
 - (2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:
 - (a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:
 - a. Amobarbital;
 - b. [Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;]
 - [c.] Secobarbital;
 - [d.] c. Pentobarbital;
 - (b) Any suppository dosage form containing any quantity or salt of the following:
 - a. Amobarbital;

- b. Secobarbital;
- c. Pentobarbital;
- (c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;
- (d) Chlorhexadol;
- (e) **Embutramide**;
- (f) **Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the federal Food, Drug, and Cosmetic Act**;
- [(e)] (g) Ketamine, its salts, isomers, and salts of isomers;
- [(f)] (h) Lysergic acid;
- [(g)] (i) Lysergic acid amide;
- [(h)] (j) Methypylon;
- [(i)] (k) Sulfondiethylmethane;
- [(j)] (l) Sulfonethylmethane;
- [(k)] (m) Sulfonmethane;
- [(l)] (n) Tiletamine and zolazepam or any salt thereof;
- (3) Nalorphine;
- (4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:
 - (a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
 - (b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
 - (d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or **not** more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;
- (6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, [and] corticosteroids, **and dehydroepiandrosterone**) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the

meaning of this paragraph. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, **esters and ethers** [isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation]:

- (a) Boldenone;
- (b) Chlorotestosterone (4-Chlortestosterone);
- (c) Clostebol;
- (d) Dehydrochlormethyltestosterone;
- (e) Dihydrotestosterone (4-Dihydro-testosterone);
- (f) Drostanolone;
- (g) Ethylestrenol;
- (h) Fluoxymesterone;
- (i) Formebolone (Formebolone);
- (j) Mesterolone;
- (k) Methandienone;
- (l) Methandranone;
- (m) Methandriol;
- (n) Methandrostenolone;
- (o) Methenolone;
- (p) Methyltestosterone;
- (q) Mibolerone;
- (r) Nandrolone;
- (s) Norethandrolone;
- (t) Oxandrolone;
- (u) Oxymesterone;
- (v) Oxymetholone;
- (w) Stanolone;
- (x) Stanozolol;
- (y) Testolactone;
- (z) Testosterone;
- (aa) Trenbolone;
- (bb)] **3 α ,17-dihydroxy-5 α -androstane;**
- (b) **3 α ,17 α -dihydroxy-5 α -androstane;**
- (c) **5 α -androstan-3,17-dione;**
- (d) **1-androstenediol (3 α ,17 α -dihydroxy-5 α -androst-1-ene);**
- (e) **1-androstenediol (3 α ,17 α -dihydroxy-5 α -androst-1-ene);**
- (f) **4-androstenediol (3 α ,17 α -dihydroxy-androst-4-ene);**
- (g) **5-androstenediol (3 α ,17 α -dihydroxy-androst-5-ene);**
- (h) **1-androstenedione ([5 α]-androst-1-en-3,17-dione);**
- (i) **4-androstenedione (androst-4-en-3,17-dione);**
- (j) **5-androstenedione (androst-5-en-3,17-dione);**
- (k) **Bolasterone (7 α , 17 α -dimethyl-17 α -hydroxyandrost-4-en-3-one);**
- (l) **Boldenone (17 α -hydroxyandrost-1,4,-diene-3-one);**
- (m) **Calusterone (7 α , 17 α -dimethyl-17 α -hydroxyandrost-4-en-3-one);**
- (n) **Clostebol (4-chloro-17 α -hydroxyandrost-4-en-3-one);**
- (o) **Dehydrochloromethyltestosterone (4-chloro-17 α -hydroxy-17 α -methyl-androst-1,4-dien-3-one);**
- (p) **Δ 1-dihydrotestosterone (a.k.a. '1-testosterone')(17 α -hydroxy-5 α -androst-1-en-3-one);**
- (q) **4-dihydrotestosterone (17 α -hydroxy-androstan-3-one);**
- (r) **Drostanolone (17 α -hydroxy-2 α -methyl-5 α -androstan-3-one);**
- (s) **Ethylestrenol (17 α -ethyl-17 α -hydroxyestr-4-ene);**

- (t) Fluoxymesterone (9-fluoro-17 α -methyl-11 β ,17 β -dihydroxyandrost-4-en-3-one);
- (u) Formebolone (2-formyl-17 α -methyl-11 β ,17 β -dihydroxyandrost-1,4-dien-3-one);
- (v) Furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]-furazan);
- (w) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;
- (x) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
- (y) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one);
- (z) Mestanolone (17 α -methyl-17 β -hydroxy-5-androstan-3-one);
- (aa) Mesterolone (1 α -methyl-17 β -hydroxy-[5 α]-androstan-3-one);
- (bb) Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
- (cc) Methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
- (dd) Methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
- (ee) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane);
- (ff) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane);
- (gg) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene;
- (hh) 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one);
- (ii) Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one);
- (jj) Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9,11-trien-3-one);
- (kk) Methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
- (ll) Mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
- (mm) 17 α -methyl- Δ 1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-5 α -androst-1-en-3-one) (a.k.a. '17- α -methyl-1-testosterone');
- (nn) Nandrolone (17 β -hydroxyestr-4-ene-3-one);
- (oo) 19-nor-4-androstenediol (3 β ,17 β -dihydroxyestr-4-ene);
- (pp) 19-nor-4-androstenediol (3 α ,17 β -dihydroxyestr-4-ene);
- (qq) 19-nor-5-androstenediol (3 β ,17 β -dihydroxyestr-5-ene);
- (rr) 19-nor-5-androstenediol (3 α ,17 β -dihydroxyestr-5-ene);
- (ss) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- (tt) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (uu) Norbolethone (13 β ,17 α -diethyl-17 β -hydroxygon-4-en-3-one);
- (vv) Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
- (ww) Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
- (xx) Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
- (yy) Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androstan-3-one);
- (zz) Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
- (aaa) Oxymethalone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-androstan-3-one);
- (bbb) Stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);
- (ccc) Stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
- (ddd) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- (eee) Testosterone (17 β -hydroxyandrost-4-en-3-one);
- (fff) Tetrahydrogestrinone (13 β ,17 α -diethyl-17 β -hydroxygon-4,9,11-trien-3-one);
- (ggg) Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one);
- (hhh) Any salt, ester, or [isomer] ether of a drug or substance described or listed in this subdivision, [if that salt, ester or isomer promotes muscle growth] except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. [Some other names for

dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol)];

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene [(alpha-(+)-4-dimethyl-amino-1, 2-diphenyl-3-methyl-2-propionoxybutane)] (**alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane**);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam;
- (b) Barbitol;
- (c) Bromazepam;
- (d) Camazepam;
- (e) Chloral betaine;
- (f) Chloral hydrate;
- (g) Chlordiazepoxide;
- (h) Clobazam;
- (i) Clonazepam;
- (j) Clorazepate;
- (k) Clotiazepam;
- (l) Cloxazolam;
- (m) Delorazepam;
- (n) Diazepam;

- (o) Dichloralphenazone;
- (p) Estazolam;
- (q) Ethchlorvynol;
- (r) Ethinamate;
- (s) Ethyl loflazepate;
- (t) Fludiazepam;
- (u) Flunitrazepam;
- (v) Flurazepam;
- (w) Halazepam;
- (x) Haloxazolam;
- (y) Ketazolam;
- (z) Loprazolam;
- (aa) Lorazepam;
- (bb) Lormetazepam;
- (cc) Mebutamate;
- (dd) Medazepam;
- (ee) Meprobamate;
- (ff) Methohexital;
- (gg) Methylphenobarbital (**mephobarbital**);
- (hh) Midazolam;
- (ii) Nimetazepam;
- (jj) Nitrazepam;
- (kk) Nordiazepam;
- (ll) Oxazepam;
- (mm) Oxazolam;
- (nn) Paraldehyde;
- (oo) Petrichloral;
- (pp) Phenobarbital;
- (qq) Pinazepam;
- (rr) Prazepam;
- (ss) Quazepam;
- (tt) Temazepam;
- (uu) Tetrazepam;
- (vv) Triazolam;
- (ww) Zaleplon;
- (xx) Zolpidem;
- (yy) Zopiclone;**

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;
- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Modafinil;
- (h) Pemoline, including organometallic complexes and chelates thereof;
- (i) Phentermine;

(j) Pipradrol;
(k) Sibutramine;
(l) SPA ((-)-1-dimethylamino-1,2-diphenylethane);
(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

(a) butorphanol;
(b) pentazocine;
(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts: pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind

a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist, **intern pharmacist**, or registered pharmacy technician shall require any person, **prior to their** purchasing, receiving or otherwise acquiring such compound, mixture, or preparation[, who is not known to the pharmacist or registered pharmacy technician,] to furnish suitable photo identification **that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and** showing the date of birth of the person;

(4) **The seller shall deliver the product directly into the custody of the purchaser.**

12. [Within ninety days of the enactment of this section,] Pharmacists, **intern pharmacists**, and registered pharmacy technicians shall implement and maintain [a written or] **an** electronic log of each transaction. Such log shall include the following information:

(1) The name [and], address, **and signature** of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date **and time** of each purchase; and

(4) The name or initials of the pharmacist, **intern pharmacist**, or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. **Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section in accordance with transmission methods and frequency established by the department by regulation;**

14. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

[14.] 15. [Within thirty days of the enactment of this section,] All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

[15. Within thirty days of the enactment of this section, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substances registrant.]

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

19. The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536, RSMo, regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

21. Logs of transactions required to be kept and maintained by this section and section 195.417, shall create a rebuttable presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs.

195.070. WHO MAY PRESCRIBE. — 1. A physician, podiatrist, dentist, or a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, RSMo, in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. **An advanced practice registered nurse, as defined in section 335.016, RSMo, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019, RSMo, and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104, RSMo, may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred twenty hour supply without refill.**

3. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and he may cause them to be administered by an assistant or orderly under his direction and supervision.

[3.] 4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

[4.] 5. An individual practitioner may not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

195.100. LABELING REQUIREMENTS. — 1. It shall be unlawful to distribute any controlled substance in a commercial container unless such container bears a label containing an identifying symbol for such substance in accordance with federal laws.

2. It shall be unlawful for any manufacturer of any controlled substance to distribute such substance unless the labeling thereof conforms to the requirements of federal law and contains the identifying symbol required in subsection 1 of this section.

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a wholesaler sells or dispenses a controlled substance in a package prepared by him, he shall securely affix to each package in which that drug is contained, a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person except a pharmacist for the purpose of filling a prescription under sections 195.005 to 195.425, shall alter, deface, or remove any label so affixed.

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, dentist, podiatrist [or], veterinarian, **or advanced practice registered nurse**, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name and address of the pharmacy or practitioner for whom he is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the physician, dentist, podiatrist [or], **advanced**

practice registered nurse, or veterinarian by whom the prescription was written; the name of the collaborating physician if the prescription is written by an advanced practice registered nurse, and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

195.417. LIMIT ON SALE OR DISPENSING OF CERTAIN DRUGS, EXCEPTIONS — VIOLATIONS, PENALTY. — 1. The limits specified in [subsection 2 of] this section shall not apply to any quantity of such product, mixture, or preparation **which must be dispensed, sold, or distributed in a pharmacy** pursuant to a valid prescription.

2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, **phenylpropanolamine**, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

- (1) The sole active ingredient; or
- (2) One of the active ingredients of a combination drug; or
- (3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection;

in any total amount greater than nine grams, **without regard to the number of transactions.**

3. **Within any twenty-four hour period, no pharmacist, intern pharmacist, or registered pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:**

- (1) The sole active ingredient; or
- (2) One of the active ingredients of a combination drug; or
- (3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection; **in any total amount greater than three and six tenths grams without regard to the number of transactions.**

4. All packages of any compound, mixture, or preparation containing any detectable quantity of ephedrine, **phenylpropanolamine**, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician under section 195.017.

[4.] 5. **Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in this section in accordance with transmission methods and frequency established by the department by regulation.**

6. This section shall supersede and preempt any local ordinances or regulations, including any ordinances or regulations enacted by any political subdivision of the state. This section shall not apply to [any products that the state department of health and senior services, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors or to] the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

7. **All logs, records, documents, and electronic information maintained for the dispensing of these products shall be open for inspection and copying by municipal, county, and state or federal law enforcement officers whose duty it is to enforce the controlled substances laws of this state or the United States.**

[5. Persons selling and dispensing substances containing any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall maintain logs, documents, and records as specified in section 195.017. Persons selling only compounds, mixtures, or preparations that are excluded from Schedule V in subsection 17 or 18 of section 195.017 shall not be required to maintain such logs, documents, and records. All logs, records, documents, and electronic information maintained for the dispensing of these products shall be open for inspection and copying by municipal, county, and state or federal law enforcement officers whose duty it is to enforce the controlled substances laws of this state or the United States.

6.] **8.** Within thirty days of June 15, 2005, all persons who dispense or offer for sale pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

[7. Within thirty days of June 15, 2005, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substance registrant.

8.] **9.** Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

[9. The provisions of subsection 2 of this section limiting individuals from purchasing the specified amount in any thirty-day period shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form. However, no person shall purchase, receive, or otherwise acquire more than nine grams of any compound, mixture, or preparation excluded in subsection 17 or 18 of section 195.017, in a single purchase as provided in subsection 2 of this section.]

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, CONTENTS, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS — NOTICE OF COLLABORATIVE PRACTICE OR PHYSICIAN ASSISTANT AGREEMENTS TO BOARD, WHEN — CERTAIN NURSES MAY PROVIDE ANESTHESIA SERVICES, WHEN — CONTRACT LIMITATIONS. — 1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. **Collaborative practice arrangements may delegate to an advanced practice registered nurse, as defined in section 335.016, RSMo, the authority to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017, RSMo; except that, the collaborative practice arrangement shall not delegate the authority to administer any controlled substances listed in schedules III, IV, and V of section 195.017, RSMo, for the purpose of inducing sedation or general anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic controlled substance prescriptions shall be limited to a one hundred twenty hour supply without refill.** Such collaborative practice arrangements shall be in the form of written

agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The written collaborative practice arrangement shall contain at least the following provisions:

(1) Complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the advanced practice registered nurse;

(2) A list of all other offices or locations besides those listed in subdivision (1) of this subsection where the collaborating physician authorized the advanced practice registered nurse to prescribe;

(3) A requirement that there shall be posted at every office where the advanced practice registered nurse is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure statement informing patients that they may be seen by an advanced practice registered nurse and have the right to see the collaborating physician;

(4) All specialty or board certifications of the collaborating physician and all certifications of the advanced practice registered nurse;

(5) The manner of collaboration between the collaborating physician and the advanced practice registered nurse, including how the collaborating physician and the advanced practice registered nurse will:

(a) Engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(b) Maintain geographic proximity; and

(c) Provide coverage during absence, incapacity, infirmity, or emergency by the collaborating physician;

(6) A description of the advanced practice registered nurse's controlled substance prescriptive authority in collaboration with the physician, including a list of the controlled substances the physician authorizes the nurse to prescribe and documentation that it is consistent with each professional's education, knowledge, skill, and competence;

(7) A list of all other written practice agreements of the collaborating physician and the advanced practice registered nurse;

(8) The duration of the written practice agreement between the collaborating physician and the advanced practice registered nurse; and

(9) A description of the time and manner of the collaborating physician's review of the advanced practice registered nurse's prescribing practices. The description shall include provisions that the advanced practice registered nurse shall submit documentation of the advanced practice registered nurse's prescribing practices to the collaborating physician within fourteen days. The documentation shall include, but not be limited to, a random sample review by the collaborating physician of at least twenty percent of the charts and medications prescribed.

4. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements **including delegating authority to prescribe controlled substances**. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. **Any rules relating to dispensing or distribution of controlled substances by prescription or prescription drug orders under this section shall be subject to the approval of the department of health and senior services and the state board of pharmacy.** In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing

may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

[4.] **5.** The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for health care services delegated to a registered professional nurse provided the provisions of this section and the rules promulgated thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, all records of such disciplinary licensure action and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

[5.] **6.** Within thirty days of any change and on each renewal, the state board of registration for the healing arts shall require every physician to identify whether the physician is engaged in any collaborative practice agreement, **including collaborative practice agreements delegating the authority to prescribe controlled substances**, or physician assistant agreement and also report to the board the name of each licensed professional with whom the physician has entered into such agreement. The board may make this information available to the public. The board shall track the reported information and may routinely conduct random reviews of such agreements to ensure that agreements are carried out for compliance under this chapter.

[6. Notwithstanding anything to the contrary in this section, a registered nurse who has graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor and has been certified or is eligible for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed.]

7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed. Nothing in this subsection shall be construed to prohibit or prevent a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo, from entering into a collaborative practice arrangement under this section, except that the collaborative practice arrangement may not delegate the authority to prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017, RSMo.

8. A collaborating physician shall not enter into a collaborative practice arrangement with more than three full-time equivalent advanced practice registered nurses. This limitation shall not apply to collaborative arrangements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo, or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

9. It is the responsibility of the collaborating physician to determine and document the completion of at least a one-month period of time during which the advanced practice registered nurse shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present. This limitation shall not apply to collaborative arrangements of providers of population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

10. No agreement made under this section shall supersede current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020, RSMo, if such protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical therapeutics committee.

11. No contract or other agreement shall require a physician to act as a collaborating physician for an advanced practice registered nurse against the physician's will. A physician shall have the right to refuse to act as a collaborating physician, without penalty, for a particular advanced practice registered nurse. No contract or other agreement shall limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any advanced practice registered nurse, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. No contract or other agreement shall require any advanced practice registered nurse to serve as a collaborating advanced practice registered nurse for any collaborating physician against the advanced practice registered nurse's will. An advanced practice registered nurse shall have the right to refuse to collaborate, without penalty, with a particular physician.

335.016. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following words and terms mean:

(1) "Accredited", the official authorization or status granted by an agency for a program through a voluntary process;

(2) "Advanced practice **registered** nurse", a nurse who has [had] education beyond the basic nursing education and is certified by a nationally recognized professional organization [as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses] **as a certified nurse practitioner, certified nurse midwife, certified registered nurse anesthetist, or a certified clinical nurse specialist. The board shall promulgate rules specifying which nationally recognized professional organization certifications are to be recognized for the purposes of this section.** Advanced practice nurses and only such individuals may use the title "Advanced Practice Registered Nurse" and the abbreviation "APRN";

(3) "Approval", official recognition of nursing education programs which meet standards established by the board of nursing;

(4) "Board" or "state board", the state board of nursing;

(5) "**Certified nurse practitioner**", a registered nurse who is currently certified as a nurse practitioner by a nationally recognized certifying body approved by the board of nursing;

(6) "**Certified clinical nurse specialist**", a registered nurse who is currently certified as a clinical nurse specialist by a nationally recognized certifying board approved by the board of nursing;

(7) **"Certified nurse midwife"**, a registered nurse who is currently certified as a nurse midwife by the American College of Nurse Midwives, or other nationally recognized certifying body approved by the board of nursing;

(8) **"Certified registered nurse anesthetist"**, a registered nurse who is currently certified as a nurse anesthetist by the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, or other nationally recognized certifying body approved by the board of nursing;

[(5)] (9) **"Executive director"**, a qualified individual employed by the board as executive secretary or otherwise to administer the provisions of this chapter under the board's direction. Such person employed as executive director shall not be a member of the board;

[(6)] (10) **"Inactive nurse"**, as defined by rule pursuant to section 335.061;

[(7)] (11) **"Lapsed license status"**, as defined by rule under section 335.061;

[(8)] (12) **"Licensed practical nurse" or "practical nurse"**, a person licensed pursuant to the provisions of this chapter to engage in the practice of practical nursing;

[(9)] (13) **"Licensure"**, the issuing of a license to practice professional or practical nursing to candidates who have met the specified requirements and the recording of the names of those persons as holders of a license to practice professional or practical nursing;

[(10)] (14) **"Practical nursing"**, the performance for compensation of selected acts for the promotion of health and in the care of persons who are ill, injured, or experiencing alterations in normal health processes. Such performance requires substantial specialized skill, judgment and knowledge. All such nursing care shall be given under the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse. For the purposes of this chapter, the term "direction" shall mean guidance or supervision provided by a person licensed by a state regulatory board to prescribe medications and treatments or a registered professional nurse, including, but not limited to, oral, written, or otherwise communicated orders or directives for patient care. When practical nursing care is delivered pursuant to the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse, such care may be delivered by a licensed practical nurse without direct physical oversight;

[(11)] (15) **"Professional nursing"**, the performance for compensation of any act which requires substantial specialized education, judgment and skill based on knowledge and application of principles derived from the biological, physical, social and nursing sciences, including, but not limited to:

(a) Responsibility for the teaching of health care and the prevention of illness to the patient and his or her family;

(b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alterations in normal health processes;

(c) The administration of medications and treatments as prescribed by a person licensed by a state regulatory board to prescribe medications and treatments;

(d) The coordination and assistance in the delivery of a plan of health care with all members of a health team;

(e) The teaching and supervision of other persons in the performance of any of the foregoing;

[(12)] (16) A **"registered professional nurse" or "registered nurse"**, a person licensed pursuant to the provisions of this chapter to engage in the practice of professional nursing;

[(13)] (17) **"Retired license status"**, any person licensed in this state under this chapter who retires from such practice. Such person shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which the licensee retired from such practice, an intent to retire from the practice for at least two years, and such other facts as tend to verify the retirement as the board may deem necessary; but if the licensee thereafter reengages in the practice, the licensee shall renew his or her license with the board as provided by this chapter and by rule and regulation.

335.019. CERTIFICATE OF CONTROLLED SUBSTANCE PRESCRIPTIVE AUTHORITY, ISSUED WHEN. — The board of nursing may grant a certificate of controlled substance prescriptive authority to an advanced practice registered nurse who:

(1) Submits proof of successful completion of an advanced pharmacology course that shall include preceptorial experience in the prescription of drugs, medicines and therapeutic devices; and

(2) Provides documentation of a minimum of three hundred clock hours preceptorial experience in the prescription of drugs, medicines, and therapeutic devices with a qualified preceptor; and

(3) Provides evidence of a minimum of one thousand hours of practice in an advanced practice nursing category prior to application for a certificate of prescriptive authority. The one thousand hours shall not include clinical hours obtained in the advanced practice nursing education program. The one thousand hours of practice in an advanced practice nursing category may include transmitting a prescription order orally or telephonically or to an inpatient medical record from protocols developed in collaboration with and signed by a licensed physician; and

(4) Has a controlled substance prescribing authority delegated in the collaborative practice arrangement under section 334.104, RSMo, with a physician who has an unrestricted federal Drug Enforcement Administration registration number and who is actively engaged in a practice comparable in scope, specialty, or expertise to that of the advanced practice registered nurse.

335.076. TITLES, R.N., L.P.N., AND APRN, WHO MAY USE. — 1. Any person who holds a license to practice professional nursing in this state may use the title "Registered Professional Nurse" and the abbreviation "R.N.". No other person shall use the title "Registered Professional Nurse" or the abbreviation "R.N.". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered professional nurse.

2. Any person who holds a license to practice practical nursing in this state may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall use the title "Licensed Practical Nurse" or the abbreviation "L.P.N.". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.

3. Any person who holds a license or recognition to practice advanced practice nursing in this state may use the title "Advanced Practice Registered Nurse", and the abbreviation "APRN", and any other title designations appearing on his or her license. No other person shall use the title "Advanced Practice Registered Nurse" or the abbreviation "APRN". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is an advanced practice registered nurse.

4. No person shall practice or offer to practice professional nursing, practical nursing, or advanced practice nursing in this state or use any title, sign, abbreviation, card, or device to indicate that such person is a practicing professional nurse, practical nurse, or advanced practice nurse unless he or she has been duly licensed under the provisions of this chapter.

5. In the interest of public safety and consumer awareness, it is unlawful for any person to use the title "nurse" in reference to himself or herself in any capacity, except individuals who are or have been licensed as a registered nurse, licensed practical nurse, or advanced practice registered nurse under this chapter.

6. Notwithstanding any law to the contrary, nothing in this chapter shall prohibit a [person listed as a] Christian Science nurse [in the Christian Science Journal published by the Christian Science Publishing Society, Boston, Massachusetts,] from using the title "Christian Science nurse", so long as such person provides **only** religious nonmedical services when offering or providing **such** services to [a member of his or her own religious organization] **those who**

choose to rely upon healing by spiritual means alone and does not hold his or her own religious organization and does not hold himself or herself out as a registered nurse, advanced practice registered nurse, nurse practitioner, licensed practical nurse, nurse midwife, clinical nurse specialist, or nurse anesthetist, unless otherwise authorized by law to do so.

SECTION B. EFFECTIVE DATE — The repeal and reenactment of sections 195.017 and 195.417 of this act shall become effective January 1, 2009.

Approved June 10, 2008

SB 733 [HCS SB 733]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires crime laboratories providing reports or testimony to a state court to be accredited

AN ACT to repeal section 650.100, RSMo, and to enact in lieu thereof two new sections relating to crime laboratories.

SECTION

A. Enacting clause.

650.060. Accreditation of crime laboratory required, when — exceptions — rulemaking authority.

650.100. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 650.100, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 650.060 and 650.100, to read as follows:

650.060. ACCREDITATION OF CRIME LABORATORY REQUIRED, WHEN — EXCEPTIONS — RULEMAKING AUTHORITY. — **1.** On or after December 31, 2012, any crime laboratory providing reports or testimony to a state court pertaining to a result of the forensic analysis of evidence shall be accredited or provisionally accredited by a laboratory accrediting organization approved by the department of public safety.

2. This section shall not apply to testimony, results, reports, or evidence of forensic analysis produced by a crime laboratory prior to December 31, 2012. Such testimony, results, reports, or evidence of forensic analysis need not be performed by an accredited or provisionally accredited crime laboratory and may be produced or presented on behalf of the prosecution in a state court after December 31, 2012, as long as the forensic analysis was produced prior to such date.

3. Crime laboratories may utilize funding provided through section 595.045, RSMo, to defray costs associated with applying for and maintaining accreditation.

4. The department of public safety shall promulgate rules identifying approved accrediting bodies and shall establish procedures for the monitoring of crime laboratory compliance with the approved accrediting body. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,

or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

650.100. DEFINITIONS. — As used in this chapter, the following words shall have the following meanings unless a different meaning clearly appears from the context:

(1) "Central repository", is the location where all DNA samples collected from individuals defined in section 650.055 will be maintained and analyzed; where all authorized DNA profiles uploaded to the state's database will be maintained; and from where all authorized DNA profiles will be uploaded to the national DNA database;

(2) "CODIS", the Federal Bureau of Investigation's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local DNA crime laboratories. The term "CODIS" includes the National DNA Index System administered and operated by the Federal Bureau of Investigation;

(3) "Crime [laboratories]", those crime laboratories existing on September 28, 1979, in certain cities in this state and which have at least once prior to September 28, 1979, received funding through the Missouri council on criminal justice, and such other crime laboratories that may be created to serve specified regions of the state as determined by the director of the department of public safety] **laboratory", a laboratory operated or supported financially by the state or any unit of city, county, or other local Missouri government that employs at least one scientist, who examines physical evidence in criminal matters and provides expert or opinion testimony with respect to such physical evidence in a state court of law;**

(4) "Department", the Missouri department of public safety;

(5) "DNA", deoxyribonucleic acid. DNA is located in the cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification;

(6) "DNA profile" refers to the collective results of all DNA identification analyses on an individual's DNA sample;

(7) "DNA record", the DNA identification information stored in the state DNA database or CODIS. The DNA record is the result obtained from the DNA analysis. The DNA record is comprised of the characteristics of a DNA sample, which are of value in establishing the identity of individuals, the DNA profile as well as data required to manage and operate the state's DNA database, to include the specimen identification number;

(8) "DNA sample", a biological sample provided by any person with respect to offenses covered by section 650.055 or submitted to the Missouri state highway patrol crime laboratory pursuant to sections 650.050 to 650.100 for analysis or storage or both;

(9) "Forensic DNA analysis", the identification and evaluation of biological evidence in criminal matters using DNA technologies;

(10) "Local funds", any funds not provided by the federal government.

Approved June 30, 2008

SB 748 [SB 748]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires property taxes paid by certain non-resident taxpayers to be added-back to adjusted gross income

AN ACT to repeal section 143.121, RSMo, and to enact in lieu thereof one new section relating to the calculation of adjusted gross income for income tax purposes, with an emergency clause.

SECTION

- A. Enacting clause.
- 143.121. Missouri adjusted gross income.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 143.121, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.121, to read as follows:

143.121. MISSOURI ADJUSTED GROSS INCOME. — 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002;

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal taxable income but disallowed for Missouri income tax purposes pursuant to this paragraph after June 18, 2002, may be carried forward and taken against any income on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss; and

(e) For nonresident individuals in all taxable years ending on or after December 31, 2006, the amount of any property taxes paid to another state or a political subdivision of another state for which a deduction was allowed on such nonresident's federal return in the taxable year **unless such state, political subdivision of a state, or the District of Columbia allows a subtraction from income for property taxes paid to this state for purposes of calculating income for the income tax for such state, political subdivision of a state, or the District of Columbia.**

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002;

(h) For all tax years beginning on or after January 1, 2005, the amount of any income received for military service while the taxpayer serves in a combat zone which is included in federal adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone" means any area which the President of the United States by Executive Order designates as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combat activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; and

(i) For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection.

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

6. In addition to the modifications to a taxpayer's federal adjusted gross income in this section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or involuntary conversion of property as a result of condemnation or the imminence thereof.

7. (1) As used in this subsection, "qualified health insurance premium" means the amount paid during the tax year by such taxpayer for any insurance policy primarily providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

(2) In addition to the subtractions in subsection 3 of this section, one hundred percent of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for such premiums is included in federal taxable income. The taxpayer shall provide the department of revenue with proof of the amount of qualified health insurance premiums paid.

SECTION B. EMERGENCY CLAUSE. — Because of the need for accurate imposition and collection of the Missouri income tax, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 23, 2008

SB 753 [HCS SCS SBs 753, 728, 906 & 1026]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates certain stretches of highway after law enforcement or military personnel

AN ACT to amend chapter 227, RSMo, by adding thereto four new sections relating to the designation of memorial highways.

SECTION

- A. Enacting clause.
- 227.386. Corporal Rickey L. Bell Memorial Highway designated for a portion of Highway 84 in city of Caruthersville.
- 227.387. Deputy Charles M. Cook Memorial Highway designated for a portion of Highway 169.
- 227.394. Lance Corporal Leon B. Deraps memorial highway designated for portion of Highway 87 in Moniteau County
- 227.396. Rick Seiner Memorial Highway designated for a portion of Highway 13 in Polk County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto four new sections, to be known as sections 227.386, 227.387, 227.394, and 227.396, to read as follows:

227.386. CORPORAL RICKEY L. BELL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 84 IN CITY OF CARUTHERSVILLE. — The portion of state highway 84 within Pemiscot County from the interstate highway 55 exit to the Caruthersville city limits shall be designated the "Corporal Rickey L. Bell Memorial Highway". The department of transportation shall erect and maintain appropriate signs commemorating this portion of highway. All signage shall be paid for and maintained through private

sources and shall meet appropriate specifications as set forth by the department of transportation.

227.387. DEPUTY CHARLES M. COOK MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 169. — The portion of U.S. Highway 169 from its intersection with Missouri Route 6, north to its intersection with Gene Field Road, shall be designated the "Deputy Charles M. Cook Memorial Highway". The department of transportation shall erect and maintain appropriate signs commemorating this portion of U.S. Highway 169, with the cost of such signs to be paid by the St. Joseph Fraternal Order of Police.

227.394. LANCE CORPORAL LEON B. DERAPS MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 87 IN MONITEAU COUNTY — The portion of state highway 87 in Moniteau County, from its intersection with state highway AA, to a destination four miles south of such intersection, shall be designated the "Lance Corporal Leon B. Deraps Memorial Highway". All signage shall be paid for through private sources.

227.396. RICK SEINER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 13 IN POLK COUNTY. — The portion of state highway 13 within Polk County from its intersection with state highway 83 to its intersection with state highway Y shall be designated the "Rick Seiner Memorial Highway". The department of transportation shall erect and maintain appropriate signs commemorating this portion of highway. All signage shall be paid for and maintained through private sources and shall meet appropriate specifications as set forth by the department of transportation.

Approved June 17, 2008

SB 765 [CCS HCS SCS SB 765]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals the provisions which allow villages to incorporate in an alternative way rather than requiring a petition by 2/3 of the taxable inhabitants that is approved by the county commission

AN ACT to repeal section 72.080, RSMo, and to enact in lieu thereof one new section relating to incorporation of municipalities.

SECTION

- A. Enacting clause.
- 72.080. Cities and towns may be incorporated in their respective classes — exception, certain cities must comply with boundary change law — exception, Cass County — owners of majority of certain class of property may object to incorporation, cause of action — definition — contents of petition.
- B. Severability clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 72.080, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 72.080, to read as follows:

72.080. CITIES AND TOWNS MAY BE INCORPORATED IN THEIR RESPECTIVE CLASSES — EXCEPTION, CERTAIN CITIES MUST COMPLY WITH BOUNDARY CHANGE LAW — EXCEPTION, CASS COUNTY — OWNERS OF MAJORITY OF CERTAIN CLASS OF PROPERTY MAY OBJECT TO

INCORPORATION, CAUSE OF ACTION — DEFINITION — CONTENTS OF PETITION. — 1. [Notwithstanding any provision of law to the contrary, and as an alternative to, and not in lieu of, the procedure established in section 80.020, RSMo,] Any unincorporated city, town, [village,] or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city[, town, or village] of the class to which its population would entitle it pursuant to this chapter, and be incorporated pursuant to the law for the government of cities[, towns, or villages] of that class, in the following manner:

[(1)] Whenever a number of voters equal to fifteen percent of the [registered voters] **votes cast in the last gubernatorial election** in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city, town, [village,] or area is situated, such petition shall describe, by metes and bounds, the area to be incorporated and be accompanied by a plat thereof, shall state the approximate population and the assessed valuation of all real and personal property in the area and shall state facts showing that the proposed city[, town, or village, if such village has at least one hundred inhabitants residing in it,] shall have the ability to furnish normal municipal services within a reasonable time after its incorporation is to become effective and praying that the question be submitted to determine if it may be incorporated[;

(2) The governing body shall submit the question to the voters if it is satisfied the number of voters signing such petition is equal to fifteen percent of the registered voters in the area proposed to be incorporated. As used in this section, "village" means any small group or assemblage of houses in an unincorporated area, being generally less than in a town or city, or any small group or assemblages of houses or buildings built for dwelling or for business, or both, in an unincorporated area, regardless of whether they are situated upon regularly laid out streets or alleys dedicated to public use, having no minimum number of registered voters in the area, and without regard to the existence of churches, parks, schools, or commercial establishments in that area or whether the proposed village is devoted to community purposes]. **If the governing body shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated have signed such petition, the governing body shall submit the question to the voters.**

2. The [governing body] **county** may make changes in the petition to correct technical errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary changes occurring within six months prior to the time of filing the petition. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a city, town or village, although the governing body shall be satisfied as to the sufficiency of the signatures for the final proposed area. If a majority of the voters voting on the question vote for incorporation, the governing body shall declare such city, town, [village,] or other area incorporated, designating in such order the metes and bounds thereof, and thenceforth the inhabitants within such bounds shall be a body politic and incorporate, by the name and style of "the city of", **or** "the town of", ["the village of"] **and** the first officers of such city[, or town[, or village] shall be designated by the order of the governing body, who shall hold their offices until the next municipal election and until their successors shall be duly elected and qualified. [The city, town, or village shall have perpetual succession, unless disincorporated; may sue and be sued; may plead and be impleaded; may defend and be defended in all courts and in all actions, pleas, and matters whatsoever; may grant, purchase, hold, and receive property, real and personal, within such place and no other, burial grounds and cemeteries excepted; and may lease, sell, and dispose of such property for the benefit of the city, town, or village; and may have a common seal, and alter such seal at pleasure.] The county shall pay the costs of the election.

3. In any county with a charter form of government where fifty or more cities, towns and villages have been incorporated, an unincorporated city, town or other area of the state shall not be incorporated except as provided in sections 72.400 to 72.420.

4. Any unincorporated area with a private eighteen-hole golf course community and with at least a one hundred acre lake located within any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may incorporate as a city of the class to which its population would entitle it pursuant to this chapter notwithstanding any proposed annexation of the unincorporated area by any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county. If any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county proposes annexation by ordinance or resolution of any unincorporated area as defined in this subsection, no such annexation shall become effective until and only after a majority of the qualified voters in the unincorporated area proposed to be incorporated fail to approve or oppose the proposed incorporation by a majority vote in the election described in subsection 2 of this section.

5. Prior to the election described in subsection 2 of this section, if the owner or owners of either the majority of the commercial or the majority of the agricultural classification of real property in the proposed area to be incorporated object to such incorporation, such owner or owners may file an action in the circuit court of the county in which such unincorporated area is situated, pursuant to chapter 527, RSMo, praying for a declaratory judgment requesting that such incorporation be declared unreasonable by the court. As used in this subsection, a "majority of the commercial or agricultural classification" means a majority as determined by the assessed valuation of the tracts of real property in either classification to be determined by the assessments made according to chapter 137, RSMo. The petition in such action shall state facts showing that such incorporation including the real property owned by the petitioners is not reasonable based on the same criteria as specified in subsection 3 of section 72.403 and is not necessary to the proper development of the city or town. If the circuit court finds that such inclusion is not reasonable and necessary, it may enjoin the incorporation or require the petition requesting the incorporation to be resubmitted excluding all or part of the property of the petitioners from the proposed incorporation.

SECTION B. SEVERABILITY CLAUSE. — If any provision of section 72.080 or the application thereof to anyone or to any circumstances is held invalid, the remainder of section 72.080 and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved June 19, 2008

SB 768 [SS SCS SB 768]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services

AN ACT to amend chapter 633, RSMo, by adding thereto two new sections relating to autism spectrum disorders as addressed by the department of mental health.

SECTION

- A. Enacting clause.
 - 633.200. Commission established, members, duties.
 - 633.225. Office of autism services established, duties — autism spectrum disorder defined.
-

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 633, RSMo, is amended by adding thereto two new sections, to be known as sections 633.200 and 633.225, to read as follows:

633.200. COMMISSION ESTABLISHED, MEMBERS, DUTIES. — **1.** For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard diagnostic criteria for pervasive developmental disorder, to include autistic disorder; Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

2. There is hereby created the "Missouri Commission on Autism Spectrum Disorders" to be housed within the department of mental health. The department of mental health shall provide technical and administrative support as required by the commission. The commission shall meet on at least four occasions annually, including at least two occasions before the end of December of the first year the committee is fully established. The commission may hold meetings by telephone or video conference. The commission shall advise and make recommendations to the governor, general assembly, and relevant state agencies regarding matters concerning all state levels of autism spectrum disorder services, including healthcare, education, and other adult and adolescent services.

3. The commission shall be composed of twenty-four members, consisting of the following:

(1) Four members of the general assembly, with two members from the senate and two members from the house of representatives. The president pro tem of the senate shall appoint one member from the senate and the minority leader of the senate shall appoint one member from the senate. The speaker of the house shall appoint one member from the house of representatives and the minority leader of the house shall appoint one member from the house of representatives;

(2) The director of the department of mental health, or his or her designee;

(3) The commissioner of the department of elementary and secondary education, or his or her designee;

(4) The director of the department of health and senior services, or his or her designee;

(5) The director of the department of public safety, or his or her designee;

(6) The commissioner of the department of higher education, or his or her designee;

(7) The director of the department of social services, or his or her designee;

(8) The director of the department of insurance, financial institutions and professional registration, or his or her designee;

(9) Two representatives from different institutions of higher learning located in Missouri;

(10) An individual employed as a director of special education at a school district located in Missouri;

(11) A speech and language pathologist;

(12) A diagnostician;

(13) A mental health provider;

(14) A primary care physician;

(15) Two parents of individuals with autism spectrum disorder, including one parent of an individual under the age of eighteen and one parent of an individual over the age of eighteen;

(16) Two individuals with autism spectrum disorder;

(17) A representative from an independent private provider or non-profit provider or organization;

(18) A member of a county developmental disability board.

The members of the commission, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the commission shall be selected by the members of the commission. Of the members first appointed to the commission by the governor, half shall serve a term of four years and half shall serve a term of two years, and thereafter, members shall serve a term of four years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the commission shall be filled in the same manner as the original appointment. Members shall serve on the commission without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of mental health.

4. The members of the commission shall consist of a broad representation of Missouri citizens, both urban and rural, who are concerned with the health and quality of life for individuals with autism spectrum disorder.

5. The commission shall make recommendations for developing a comprehensive statewide plan for an integrated system of training, treatment, and services for individuals of all ages with autism spectrum disorder. By July 1, 2009, the commission shall issue preliminary findings and recommendations to the general assembly.

6. In preparing the state plan, the commission shall specifically perform the following responsibilities and report on them accordingly, in conjunction with state agencies and the Office of Autism Services:

(1) Study and report on the means for developing a comprehensive, coordinated system of care delivery across the state to address the increased and increasing presence of autism spectrum disorder and ensure that resources are created, well-utilized, and appropriately spread across the state;

(a) Determine the need for the creation of additional centers for diagnostic excellence in designated sectors of the state, which could provide clinical services, including assessment, diagnoses, and treatment of patients;

(b) Plan for effectively evaluating regional service areas throughout the state and their capacity, including outlining personnel and skills that exist within the service area, other capabilities that exist, and resource needs that may be unmet;

(c) Assess the need for additional behavioral intervention capabilities and, as necessary, the means for expanding those capabilities in a regional service area;

(d) Develop recommendations for expanding these services in conjunction with hospitals after considering the resources that exist in terms of specialty clinics and hospitals, and hospital inpatient care capabilities;

(2) Conduct an assessment of the need for coordinated, enhanced and targeted special education capabilities within each region of the state;

(3) Develop a recommendation for enlisting appropriate universities and colleges to ensure support and collaboration in developing certification or degree programs for students specializing in autism spectrum disorder intervention. This may include degree programs in education, special education, social work, and psychology; and

(4) Other responsibilities may include but not be limited to:

(a) Provide recommendations regarding training programs and the content of training programs being developed;

(b) Recommend individuals to participate in a committee of major stakeholders charged with developing screening, diagnostic, assessment, and treatment standards for Missouri;

(c) Participate in recommending a panel of qualified professionals and experts to review existing models of evidence-based educational practices for adaptation specific to Missouri;

(d) Examine the barriers to accurate information of the prevalence of individuals with autism spectrum disorder across the state and recommend a process for accurate reporting of demographic data;

(e) Explore the need for the creation of interagency councils and evaluation of current councils to ensure a comprehensive, coordinated system of care for all individuals with autism spectrum disorder;

(f) Study or explore other developmental delay disorders and genetic conditions known to be associated with autism, including fragile X syndrome; Sotos syndrome; Angelman syndrome; and tuberous sclerosis.

633.225. OFFICE OF AUTISM SERVICES ESTABLISHED, DUTIES — AUTISM SPECTRUM DISORDER DEFINED — 1. There is hereby established in the department of mental health within the division of mental retardation and developmental disabilities, an "Office of Autism Services". The office of autism services, under the supervision of the director of the division of mental retardation and developmental disabilities, shall provide leadership in program development for children and adults with autism spectrum disorders, to include establishment of program standards and coordination of program capacity.

2. For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder; Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

Approved June 23, 2008

SB 788 [SCS SB 788]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration

AN ACT to repeal sections 43.543, 105.711, 135.520, 144.011, 148.330, 194.119, 209.285, 214.270, 256.453, 285.230, 320.082, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.256, 326.265, 326.283, 326.289, 326.292, 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.011, 333.221, 334.123, 334.240, 334.400, 334.500, 334.506, 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.010, 339.120, 339.150, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.366, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 381.410, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.105, 620.106, 620.111, 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140, 620.145, 620.146, 620.148, 620.149, 620.150, 620.151, 620.153, 620.154, 620.1063, 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and 700.650, RSMo, and to enact in lieu thereof one hundred sixty-four new sections relating to

reorganization of the department of insurance, financial institutions and professional registration, in keeping with Executive Order 06-04, with penalty provisions.

SECTION

- A. Enacting clause.
- 21.840. Joint committee established, members, appointment, terms, duties, meetings — report required — expiration date.
- 43.543. Certain agencies to submit fingerprints, use of fingerprints for background search — procedure for submission.
- 105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
- 135.520. Annual review by division of finance, report of findings — decertification, grounds, notice of noncompliance — notice of decertification, decertification.
- 144.011. Sale at retail not to include certain transfers.
- 148.330. Returns, assessment of tax, procedure — notice to company — taxes, how paid — suspension of delinquents, apportionment of money — county, defined.
- 194.119. Right of sepulcher, the right to choose and control final disposition of a dead human body.
- 209.285. Definitions.
- 214.270. Definitions.
- 256.453. Definitions.
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- 620.1063. Withdrawal from program, effect — withdrawal of funds — examination of accounts authorized.
- 700.010. Definitions.
- 700.041. Manufactured housing consumer recovery fund established, use of moneys.
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- 700.056. Dealer to provide buyer certain information.
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- 620.125. Rules and regulations, occupations and professions, procedure.
- 620.127. All license, permit or certificate applications shall contain the applicant's Social Security number — exceptions.
- 620.130. Orientation programs for appointees to boards or commissions.
- 620.132. Public members, state boards, forfeiture of membership, when — report to general public, when.
- 620.135. Felony not to be sole grounds for denial of license.
- 620.140. Fees — collection and disposition.
- 620.145. Division to maintain registry of licensees — boards may publish, procedure.
- 620.146. Destruction of records and documents, when — definition of records and documents.
- 620.148. Fees, collection of, contracts with third parties, when.
- 620.149. Probationary licensees, issued, when — complaint filed for refusal to issue license, procedure.
- 620.150. Classification for inactive licenses.
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- 700.450. Definitions.
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- 700.460. Dealers, monthly reports to commission, contents — inspections, when, by whom — law enforcement official, defined.
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- 700.470. Refusal, suspension or revocation of registration — when, procedure — operation by unregistered dealer unlawful.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.543, 105.711, 135.520, 144.011, 148.330, 194.119, 209.285, 214.270, 256.453, 285.230, 320.082, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.256, 326.265, 326.283, 326.289, 326.292, 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.011, 333.221, 334.123, 334.240, 334.400, 334.500, 334.506, 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.010, 339.120, 339.150, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.366, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 381.410, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.105, 620.106, 620.111, 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140, 620.145, 620.146, 620.148, 620.149, 620.150, 620.151, 620.153, 620.154, 620.1063, 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and 700.650, RSMo, are repealed and one hundred sixty-four new sections enacted in lieu thereof, to be known as sections 21.840, 43.543, 105.711, 135.520, 144.011, 148.330, 194.119, 209.285, 214.270, 256.453, 285.230, 320.082, 324.001, 324.002, 324.016, 324.017, 324.021, 324.022, 324.024, 324.026, 324.028, 324.029, 324.031, 324.032, 324.034, 324.036, 324.038, 324.039, 324.041, 324.042, 324.043, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.256, 326.265, 326.283, 326.289, 326.292, 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.011, 333.221, 334.123, 334.240,

334.400, 334.500, 334.506, 334.525, 334.530, 334.540, 334.550, 334.560, 334.570, 334.601, 334.602, 334.610, 334.611, 334.612, 334.613, 334.614, 334.615, 334.616, 334.617, 334.618, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 334.686, 334.687, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.010, 339.120, 339.150, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.006, 370.366, 374.005, 374.007, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 376.005, 377.005, 379.005, 380.005, 381.410, 383.005, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.1063, 700.010, 700.041, 700.045, 700.056, 700.065, 700.090, 700.095, 700.096, 700.097, 700.098, 700.100, 700.115, 700.525, and 700.650, to read as follows:

21.840. JOINT COMMITTEE ESTABLISHED, MEMBERS, APPOINTMENT, TERMS, DUTIES, MEETINGS — REPORT REQUIRED — EXPIRATION DATE. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Preneed Funeral Contracts" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a comprehensive study and analysis of the consumer and economic impact on the preneed funeral contract industry in the state of Missouri;

(2) Determine from its study and analysis the need for changes in statutory law; and

(4) Make any other recommendation to the general assembly relating to its findings.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives.

4. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than January 31, 2009, and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on January 31, 2009.

43.543. CERTAIN AGENCIES TO SUBMIT FINGERPRINTS, USE OF FINGERPRINTS FOR BACKGROUND SEARCH — PROCEDURE FOR SUBMISSION. — Any state agency listed in section 621.045, RSMo, the division of professional registration of the department of [economic development] **insurance, financial institutions and professional registration**, the department of social services, the supreme court of Missouri, the state courts administrator, the department of elementary and secondary education, the Missouri lottery, the Missouri gaming commission, or any state, municipal, or county agency which screens persons seeking employment with such agencies or issuance or renewal of a license, permit, certificate, or registration of authority from such agencies; or any state, municipal, or county agency or committee, or state school of higher education which is authorized by state statute or executive order, or local or county ordinance to screen applicants or candidates seeking or considered for employment, assignment, contracting, or appointment to a position within state, municipal, or county government; or the Missouri peace officers standards and training, POST, commission which screens persons, not employed by a criminal justice agency, who seek enrollment or access into a certified POST training academy police school, or persons seeking a permit to purchase or possess a firearm for employment as a watchman, security personnel, or private investigator; or law enforcement agencies which screen persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase or possess a firearm shall submit two sets of fingerprints to the Missouri state highway patrol, Missouri criminal records repository, for the purpose of checking the person's criminal history. The first set of fingerprints shall be used to search the Missouri criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files if necessary. The fingerprints shall be submitted on forms and in the manner prescribed by the Missouri state highway patrol. Fees assessed for the searches shall be paid by the applicant or in the manner prescribed by the Missouri state highway patrol. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state, municipal, or county agency making the record request.

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo;

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other

health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who provides health care services within the scope of his or her license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such services are restricted to primary care and preventive health services, provided that such services shall not include the performance of an abortion, and if such health services are provided by the health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, without compensation. MO HealthNet or Medicare payments for primary care and preventive health services provided by a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who volunteers at a free health clinic is not compensation for the purpose of this section if the total payment is assigned to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,

337, or 338, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(f) Any physician licensed under chapter 334, RSMo, or dentist licensed under chapter 332, RSMo, providing medical care without compensation to an individual referred to his or her care by a city or county health department organized under chapter 192 or 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a federally funded community health center organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such treatment shall not include the performance of an abortion. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed one million dollars for any one claimant, and insurance policies purchased under the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician licensed under chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(4) Staff employed by the juvenile division of any judicial circuit;

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(6) Any social welfare board created under section 205.770, RSMo, and the members and officers thereof upon conduct of such officer or employee while acting in his or her capacity as a board member or officer, and any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who is referred to provide medical care without compensation by the board and who provides health care services within the scope of his or her license or registration as prescribed by the board.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 7 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, for coverage concerning his or her private practice and assets shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. However, a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs. In the case of any claim or judgment against an officer or employee of the state or any agency of the state based upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state that would give rise to a cause of action under section 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive damages, for:

- (1) Economic damages to any one claimant; and

- (2) Up to three hundred fifty thousand dollars for noneconomic damages.

The state legal expense fund shall be the exclusive remedy and shall preclude any other civil actions or proceedings for money damages arising out of or relating to the same subject matter against the state officer or employee, or the officer's or employee's estate. No officer or employee of the state or any agency of the state shall be individually liable in his or her personal capacity for conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state. The provisions of this subsection shall not apply to any defendant who is not an officer or employee of the state or any agency of the state in any proceeding against an officer or employee of the state or any agency of the state. Nothing in this subsection shall limit the rights and remedies otherwise available to a claimant under state law or common law in proceedings where one or more defendants is not an officer or employee of the state or any agency of the state.

6. The limitation on awards for noneconomic damages provided for in this subsection shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, **financial institutions and professional registration**, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

7. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

135.520. ANNUAL REVIEW BY DIVISION OF FINANCE, REPORT OF FINDINGS — DECERTIFICATION, GROUNDS, NOTICE OF NONCOMPLIANCE — NOTICE OF DECERTIFICATION, DECERTIFICATION. — 1. The division of finance [of the department of economic development] shall conduct an annual review of each Missouri certified capital company and any qualified investing entities designated by it to determine if the Missouri certified capital company is abiding by the requirements of certifications, to advise the Missouri certified capital company as to the certification status of its qualified investments and to ensure that no investment has been made in violation of sections 135.500 to 135.529. The cost of the annual review shall be paid by each Missouri certified capital company according to a reasonable

fee schedule adopted by the department. The division of finance shall report its findings to the department as soon as practicable following completion of the audit.

2. Any material violation of sections 135.500 to 135.529 shall be grounds for decertification under this section. If the department determines that a company is not in compliance with any requirements for continuing in certification, it shall, by written notice, inform the officers of the company and the board of directors, managers, trustees or general partners that they may be decertified in one hundred twenty days from the date of mailing of the notice, unless they correct the deficiencies and are again in compliance with the requirements for certification.

3. At the end of the one hundred twenty-day grace period, if the Missouri certified capital company is still not in compliance, the department may send a notice of decertification to the company and to the directors of the department of revenue and department of insurance, **financial institutions and professional registration**. Decertification of a Missouri certified capital company prior to the certified capital company meeting all requirements of subdivisions (1) to (3) of subsection 1 of section 135.516 shall cause the recapture of all premium tax credits previously claimed by an investor and the forfeiture of all future credits to be claimed by an investor with respect to its investment in the certified capital company. Decertification of a Missouri certified capital company after it has met all requirements of subdivisions (1) to (3) of subsection 1 of section 135.516 shall cause the forfeiture of premium tax credits for the taxable year of the investor in which the decertification arose and for future taxable years with no recapture of tax credits obtained by an investor with respect to the investor's tax years which ended before the decertification occurred. Once a certified capital company has made cumulative qualified investments, including those made through a qualified investing entity and deemed to have been made by the certified capital company, in an amount equal to at least one hundred percent of its certified capital, all future premium tax credits to be claimed by investors with respect to said certified capital company pursuant to sections 135.500 to 135.529 shall be nonforfeitable. Once a certified capital company has made cumulative qualified investments, including those made through a qualified investing entity and deemed to have been made by the certified capital company, in an amount equal to at least one hundred percent of its certified capital and has met all other requirements under sections 135.500 to 135.529, it shall no longer be subject to regulation by the department except with respect to the payment of distributions to the Missouri development finance board.

144.011. SALE AT RETAIL NOT TO INCLUDE CERTAIN TRANSFERS. — 1. For purposes of sections 144.010 to 144.525 and 144.600 to 144.748, and the taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed to include any of the following:

(1) The transfer by one corporation of substantially all of its tangible personal property to another corporation pursuant to a merger or consolidation effected under the laws of the state of Missouri or any other jurisdiction;

(2) The transfer of tangible personal property incident to the liquidation or cessation of a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except to the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

(3) The transfer of tangible personal property to a corporation solely in exchange for its stock or securities;

(4) The transfer of tangible personal property to a corporation by a shareholder as a contribution to the capital of the transferee corporation;

(5) The transfer of tangible personal property to a partnership solely in exchange for a partnership interest therein;

(6) The transfer of tangible personal property by a partner as a contribution to the capital of the transferee partnership;

(7) The transfer of tangible personal property by a corporation to one or more of its shareholders as a dividend, return of capital, distribution in the partial or complete liquidation of the corporation or distribution in redemption of the shareholder's interest therein;

(8) The transfer of tangible personal property by a partnership to one or more of its partners as a current distribution, return of capital or distribution in the partial or complete liquidation of the partnership or of the partner's interest therein;

(9) The transfer of reusable containers used in connection with the sale of tangible personal property contained therein for which a deposit is required and refunded on return;

(10) The purchase by persons operating eating or food service establishments, of items of a nonreusable nature which are furnished to the customers of such establishments with or in conjunction with the retail sales of their food or beverage. Such items shall include, but not be limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks and toothpicks;

(11) The purchase by persons operating hotels, motels or other transient accommodation establishments, of items of a nonreusable nature which are furnished to the guests in the guests' rooms of such establishments and such items are included in the charge made for such accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and other toiletries and food or confectionery items offered to the guests without charge;

(12) The transfer of a manufactured home other than:

(a) A transfer which involves the delivery of the document known as the "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as defined in section [700.450] **700.010**, RSMo, for purposes of allowing such person to obtain a title to the manufactured home from the department of revenue of this state or the appropriate agency or officer of any other state;

(b) A transfer which involves the delivery of a "Reposessed Title" to a resident of this state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the manufactured home described in paragraph (a) of this subdivision;

(c) The first transfer which occurs after December 31, 1985, if the tax imposed by sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which occurred before December 31, 1985; or

(13) Charges for initiation fees or dues to:

(a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations operating under the lodge system a substantial part of the activities of which are devoted to religious, charitable, scientific, literary, educational or fraternal purposes; or

(b) Posts or organizations of past or present members of the armed forces of the United States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization substantially all of the members of which are past or present members of the armed forces of the United States or who are cadets, spouses, widows, or widowers of past or present members of the armed forces of the United States, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

2. The assumption of liabilities of the transferor by the transferee incident to any of the transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall not disqualify the transfer from the exclusion described in this section, where such liability assumption is related to the property transferred and where the assumption does not have as its principal purpose the avoidance of Missouri sales or use tax.

148.330. RETURNS, ASSESSMENT OF TAX, PROCEDURE — NOTICE TO COMPANY — TAXES, HOW PAID — SUSPENSION OF DELINQUENTS, APPORTIONMENT OF MONEY — COUNTY, DEFINED. — 1. Every such company shall, on or before the first day of March in each year, make a return, verified by the affidavit of its president and secretary, or other authorized officers, to the director of the department of insurance, **financial institutions and professional registration** stating the amount of all premiums received on account of policies issued in this state by the company, whether in cash or in notes, during the year ending on the thirty-first day of December, next preceding. Upon receipt of such returns the director of the department of

insurance, **financial institutions and professional registration** shall verify the same and certify the amount of tax due from the various companies on the basis and at the rates provided in section 148.320, and shall certify the same to the director of revenue together with the amount of the quarterly installments to be made as provided in subsection 2 of this section, on or before the thirtieth day of April of each year.

2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly installments, and a fifth reconciling installment. The first four installments shall be based upon the tax for the immediately preceding taxable year ending on the thirty-first day of December, next preceding. The quarterly installments shall be made on the first day of March, the first day of June, the first day of September and the first day of December. Immediately after receiving certification from the director of the department of insurance, **financial institutions and professional registration** of the amount of tax due from the various companies the director of revenue shall notify and assess each company the amount of taxes on its premiums for the calendar year ending on the thirty-first day of December, next preceding. The director of revenue shall also notify and assess each company the amount of the estimated quarterly installments to be made for the calendar year. If the amount of the actual tax due for any year exceeds the total of the installments made for such year, the balance of the tax due shall be paid on the first day of June of the year following, together with the regular quarterly payment due at that time. If the total amount of the tax actually due is less than the total amount of the installments actually paid, the amount by which the amount paid exceeds the amount due shall be credited against the tax for the following year and deducted from the quarterly installment otherwise due on the first day of June. If the March first quarterly installment made by a company is less than the amount assessed by the director of revenue, the difference will be due on June first, but no interest will accrue to the state on the difference unless the amount paid by the company is less than eighty percent of one-fourth of the total amount of tax assessed by the director of revenue for the immediately preceding taxable year. The state treasurer, upon receiving the moneys paid as a tax upon such premiums to the director of revenue, shall place the moneys to the credit of a fund to be known as "The County Stock Insurance Fund", which is hereby created and established. The county stock insurance fund shall be included in the calculation of total state revenue pursuant to article X, section 18, of the Missouri Constitution.

3. If the estimated quarterly tax installments are not so paid, the director of revenue shall certify such fact to the director of the [division] **department of insurance, financial institutions and professional registration** who shall thereafter suspend such delinquent company or companies from the further transaction of business in this state until such taxes shall be paid and such companies shall be subject to the provisions of sections 148.410 to 148.461.

4. On or before the first day of September of each year the commissioner of administration shall apportion all moneys in the county stock insurance fund to the general revenue fund of the state, to the county treasurer and to the treasurer of the school district in which the principal office of the company paying the same is located. All premium tax credits described in sections 135.500 to 135.529, RSMo, and sections 348.430 and 348.432, RSMo, shall only reduce the amounts apportioned to the general revenue fund of the state and shall not reduce any moneys apportioned to any county treasurer or to the treasurer of the school district in which the principal office of the company paying the same is located. Apportionments shall be made in the same ratio which the rates of levy for the same year for state purposes, for county purposes, and for all school district purposes, bear to each other; provided that any proceeds from such tax for prior years remaining on hand in the hands of the county collector or county treasurer undistributed on the effective date of sections 148.310 to 148.460 and any proceeds of such tax for prior years collected thereafter shall be distributed and paid in accordance with the provisions of such sections. Whenever the word "county" occurs herein it shall be construed to include the city of St. Louis.

194.119. RIGHT OF SEPULCHER, THE RIGHT TO CHOOSE AND CONTROL FINAL DISPOSITION OF A DEAD HUMAN BODY. — 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) **An attorney in fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney in fact;**

(2) The surviving spouse;

[(2)] (3) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

[(3)] (4) (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the minor; or

(c) If the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;

[(4)] (5) Any surviving sibling of the deceased;

[(5)] Any person designated by the deceased to act as next-of-kin pursuant to a valid designation of right of sepulcher as provided in subsection 8 of this section;]

(6) The next nearest surviving relative of the deceased by consanguinity or affinity;

(7) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility;

(8) The county coroner or medical examiner; provided however that such assumption of responsibility shall not make the coroner, medical examiner, the county, or the state financially responsible for the cost of disposition.

3. The next-of-kin of the deceased shall be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes.

4. A funeral director or establishment is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the deceased; provided however, in any civil cause of action against a funeral director or establishment licensed pursuant to this chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such funeral director or establishment may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

5. Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition shall notify such individual or individuals prior to making final arrangements.

6. If an individual with a superior claim is personally served with written notice from a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does not object within forty-eight hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge of any objection by other members of such class, the funeral director

or establishment shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

[8. Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher shall be witnessed by two persons, and shall contain the names and last known address of each person entitled to be next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person so designated.]

209.285. DEFINITIONS. — As used in sections 209.285 to 209.339, unless the context clearly requires otherwise, the following terms mean:

(1) "American sign language", a visual-gestural system of communication that has its own syntax, rhetoric and grammar. American sign language is recognized, accepted and used by many deaf Americans. This native language represents concepts rather than words;

(2) "Board", the Missouri board for certification of interpreters, established within the commission in section 209.287;

(3) "Certification", a document issued by the Missouri commission for the deaf and hard of hearing declaring that the holder is qualified to practice interpreting at a disclosed level;

(4) "Commission", the Missouri commission for the deaf and hard of hearing;

(5) "Committee", the Missouri state committee of interpreters, established in section 209.319;

(6) "Conversion levels", the process of granting levels of certification by the commission to individuals holding certification from another state or within another certification system in this state or another state;

(7) "Coordinator", a staff person, hired by the executive director of the Missouri commission for the deaf and hard of hearing, who shall serve as coordinator for the Missouri interpreter certification system;

(8) "Deaf person", any person who is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(9) "Department", the [Missouri] department of [economic development] **insurance, financial institutions and professional registration;**

(10) "Director", the director of the division of professional registration [in the department of economic development];

(11) "Division", the division of professional registration;

(12) "Executive director", the executive director of the Missouri commission for the deaf and hard of hearing;

(13) "Interpreter", any person who offers to render interpreting services implying that he or she is trained, and experienced in interpreting, and holds a current, valid certification and license to practice interpreting in this state; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be an interpreter;

(14) "Interpreter trainer", a person, certified and licensed by the state of Missouri as an interpreter, who trains new interpreters in the translating of spoken English or written concepts to any necessary specialized vocabulary used by a deaf consumer. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(15) "Interpreting", the translating of English spoken or written concepts to any necessary specialized vocabulary used by a deaf person or the translating of a deaf person's specialized vocabulary to English spoken or written concepts; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be

considered to be interpreting. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;

(16) "Language deficient", mode of communication used by deaf individuals who lack crucial language components, including, but not limited to, vocabulary, language concepts, expressive skills, language skills and receptive skills;

(17) "Missouri commission for the deaf", Missouri commission for the deaf and hard of hearing established in section 161.400;

(18) "Oral", mode of communication having characteristics of speech, speech reading and residual hearing as a primary means of communication using situational and culturally appropriate gestures, without the use of sign language;

(19) "Pidgin Signed English", a mode of communication having characteristics of American sign language;

(20) "Practice of interpreting", rendering or offering to render or supervise those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies or the general public any interpreting service involving the translation of any mode of communication used by a deaf person to spoken English or of spoken English to a mode of communication used by a deaf person;

(21) "Tactile sign", mode of communication, used by deaf and blind individuals, using any one or a combination of the following: tactile sign, constricted space sign or notetaking.

214.270. DEFINITIONS. — As used in sections 214.270 to 214.410, the following terms mean:

(1) "Agent" or "authorized agent", any person empowered by the cemetery operator to represent the operator in dealing with the general public, including owners of the burial space in the cemetery;

(2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

(3) "Cemetery", property restricted in use for the interment of the human dead by formal dedication or reservation by deed but shall not include any of the foregoing held or operated by the state or federal government or any political subdivision thereof, any incorporated city or town, any county or any religious organization, cemetery association or fraternal society holding the same for sale solely to members and their immediate families;

(4) "Cemetery association", any number of persons who shall have associated themselves by articles of agreement in writing as a not-for-profit association or organization, whether incorporated or unincorporated, formed for the purpose of ownership, preservation, care, maintenance, adornment and administration of a cemetery. Cemetery associations shall be governed by a board of directors. Directors shall serve without compensation;

(5) "Cemetery operator" or "operator", any person who owns, controls, operates or manages a cemetery;

(6) "Cemetery service", those services performed by a cemetery owner or operator licensed pursuant to this chapter as an endowed care cemetery including setting a monument, setting a tent, excavating a grave, or setting a vault;

(7) "Columbarium", a building or structure for the inurnment of cremated human remains;

(8) "Community mausoleum", a mausoleum containing a substantial area of enclosed space and having either a heating, ventilating or air conditioning system;

(9) "Department", department of [economic development] **insurance, financial institutions and professional registration;**

(10) "Developed acreage", the area which has been platted into grave spaces and has been developed with roads, paths, features, or ornamentations and in which burials can be made;

(11) "Director", director of the division of professional registration;

(12) "Division", division of professional registration;

(13) "Endowed care", the maintenance, repair and care of all burial space subject to the endowment within a cemetery, including any improvements made for the benefit of such burial space. Endowed care shall include the general overhead expenses needed to accomplish such maintenance, repair, care and improvements. Endowed care shall include the terms perpetual care, permanent care, continual care, eternal care, care of duration, or any like term;

(14) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents itself as offering endowed care and which complies with the provisions of sections 214.270 to 214.410;

(15) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent, to include any income therefrom, impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust, or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and accepted by any endowed care cemetery operator or his agent. This definition includes the terms endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like term;

(16) "Family burial ground", a cemetery in which no burial space is sold to the public and in which interments are restricted to persons related by blood or marriage;

(17) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of burial space is restricted solely to its members and their immediate families;

(18) "Garden mausoleum", a mausoleum without a substantial area of enclosed space and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced air or otherwise does not constitute a garden mausoleum as a community mausoleum;

(19) "Government cemetery", or "municipal cemetery", a cemetery owned, operated, controlled or managed by the federal government, the state or a political subdivision of the state, including a county or municipality or instrumentality thereof;

(20) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for burial of human remains;

(21) "Human remains", the body of a deceased person in any state of decomposition, as well as cremated remains;

(22) "Inurnment", placing an urn containing cremated remains in a burial space;

(23) "Lawn crypt", a burial vault or other permanent container for a casket which is permanently installed below ground prior to the time of the actual interment. A lawn crypt may permit single or multiple interments in a grave space;

(24) "Mausoleum", a structure or building for the entombment of human remains in crypts;

(25) "Niche", a space in a columbarium used or intended to be used for inurnment of cremated remains;

(26) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section of a cemetery for which no endowed care fund has been established in accordance with sections 214.270 to 214.410;

(27) "Owner of burial space", a person to whom the cemetery operator or his authorized agent has transferred the right of use of burial space;

(28) "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;

(29) "Registry", the list of cemeteries maintained in the division office for public review. The division may charge a fee for copies of the registry;

(30) "Religious cemetery", a cemetery owned, operated, controlled or managed by any church, convention of churches, religious order or affiliated auxiliary thereof in which the sale of burial space is restricted solely to its members and their immediate families;

(31) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land surface;

(32) "Total acreage", the entire tract which is dedicated to or reserved for cemetery purposes;

(33) "Trustee of an endowed care fund", the separate legal entity appointed as trustee of an endowed care fund.

256.453. DEFINITIONS. — As used in sections 256.450 to 256.483, the following words and phrases shall mean:

(1) "Board of geologist registration" or "board", the board of geologist registration created in section 256.459;

(2) "Certificate of registration", a license issued by the board of geologist registration granting its licensee the privilege to conduct geologic work and make interpretations, reports, and other actions in accordance with the provisions of sections 256.450 to 256.483;

(3) "Division [of professional registration]", the division of professional registration [within the department of economic development];

(4) "Geologist", a person who has met or exceeded the minimum geological educational requirements and who can interpret and apply geologic data, principles, and concepts and who can conduct field or laboratory geological investigations;

(5) "Geologist-registrant in-training", a person who meets the requirements of subsection 7 of section 256.468;

(6) "Geology", that profession based on the investigation and interpretation of the earth, including bedrock, overburden, groundwater and other liquids, minerals, gases, and the history of the earth and its life;

(7) "Practice of geology", the practice of or the offer to practice geology for others, such practice including, but not limited to, geological investigations to describe and interpret the natural processes acting on earth materials, including gases and fluids; predicting and interpreting mineral distribution, value, and production; predicting and interpreting geologic factors affecting planning, design, construction, and maintenance of engineered facilities such as waste disposal sites or dams; and the teaching of the science of geology;

(8) "Public health, safety and welfare" shall include the following: protection of groundwater; buildings and other construction projects including dams, highways and foundations; waste disposal or causes of waste pollution including human, animal, and other wastes including radionuclides; stability of the earth's surface such as could be affected by earthquakes, landslides, or collapse; the depth, casing, grouting, and other recommendations for the construction of wells or other borings into earth that intersect one or more aquifers; and excavation into the earth's materials where stability or other factors are at risk. "Public health, safety, and welfare" does not refer to geologic work conducted to determine mineral resources or other resources as could be available for various uses, teaching, or basic geologic work including making geologic maps, cross sections, stratigraphic determinations, and associated reports or other presentations;

(9) "Qualified geologist" or "professional geologist", a geologist who satisfies the educational requirements of subsection 2 of section 256.468 and who has at least three years of experience in the practice of geology subsequent to satisfying such educational requirements;

(10) "Registered geologist", a geologist who has met the qualifications established by the board and has been issued a certificate of registration by the board of geologist registration;

(11) "Responsible charge of work", the independent control and direction of geological work or the supervision of such work pertaining to the practice of geology;

(12) "Specialty", a branch of geologic study and work such as engineering geology, environmental geology, hydrogeology, mineral resources, and other related work requiring geologic education and experience.

285.230. TRANSIENT EMPLOYERS, DEFINED, BONDING REQUIREMENTS — EXCEPTIONS — SPECIFIC REQUIREMENTS — PENALTIES — RECORDS TO BE KEPT, HOW —

DISCONTINUANCE IN ACTIVITY, NOTICE TO DIRECTOR OF REVENUE. — 1. As used in this section, "transient employer" means an employer as defined in sections 143.191, RSMo, 287.030, RSMo, and 288.032, RSMo, making payment of wages taxable under chapters 143, RSMo, 287, RSMo, and 288, RSMo, who is not domiciled in this state and who temporarily transacts any business within the state, but shall not include any employer who is not subject to Missouri income tax because of the provisions of 15 U.S.C. 381. The transaction of business shall be considered temporary at any time it cannot be reasonably expected to continue for a period of twenty-four consecutive months. Professional athletic teams and professional entertainers domiciled in a state other than Missouri shall be deemed a "transient employer" for the purposes of this section, unless the person or entity who pays compensation to the nonresident entertainer has fully complied with the provisions of section 143.183, RSMo, in which case the nonresident entertainer shall not be considered a transient employer.

2. Employers meeting the following criteria shall not be required to file a financial assurance instrument as required by this section:

(1) The principal place of business of the employer must be in a county of another state which is contiguous to the state of Missouri; and

(2) The employer must have been under contract to perform work in Missouri for at least sixty days cumulatively out of twelve months during each of the two calendar years immediately preceding the employer's initial application for exemption from the provisions of this section; and

(3) The employer must have in his possession a tax clearance from the department of revenue and the division of employment security stating that the employer has faithfully complied with the tax laws of this state during the period set out in subdivision (2) of this subsection.

Within ninety days of August 13, 1988, such employers must obtain initial tax clearances in accordance with subdivision (3) of this subsection. Any tax clearance issued under the provisions of this section by the division of employment security shall be submitted to the department of revenue. On or before January thirty-first of each year, except January thirty-first following the year during which the employer first meets these criteria, the employer shall submit application to the department of revenue and division of employment security for a renewed tax clearance. Failure to submit such renewal applications or failure to comply with applicable Missouri taxing and employment security laws during the period between annual renewal dates or removal of the employer's principal place of business from a county in another state which is contiguous to Missouri to a state other than Missouri shall immediately subject the employer to all provisions of this section. An employer meeting the requirements of this subsection shall still be subject to the provisions of subsection 5 of this section.

3. Every transient employer shall file with the director of revenue a financial assurance instrument including, but not limited to, a cash bond, a surety bond, or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution. The financial assurance instrument shall be in an amount not less than the average estimated quarterly withholding tax liability of the applicant, but in no case less than five thousand dollars nor more than twenty-five thousand dollars. Any corporate surety shall be licensed to do such business in this state and approved by the director of revenue to act as a surety. The transient employer shall be the principal obligor and the state of Missouri shall be the obligee. The financial assurance instrument shall be conditioned upon the prompt filing of true reports and the payment by such employer to the director of revenue of any and all withholding taxes which are now or which hereafter may be levied or imposed by the state of Missouri, upon the employer, together with any and all penalties and interest thereon, and generally upon the faithful compliance with the provisions of chapters 143, RSMo, 287, RSMo, and 288, RSMo.

4. Any transient employer who is already otherwise required to file a financial assurance instrument as a condition of any contract, provided said financial assurance instrument guarantees payment of all applicable state taxes and all withholding taxes levied or imposed by the state and

provided that such financial assurance instrument is delivered by certified mail to the department of revenue by the applicable awarding entity at least fourteen days before the execution of the contract for the performance of work, may use the same financial assurance instrument to comply with the provisions of this section. Before such financial assurance instrument is approved by the awarding entity, the director of revenue shall be satisfied that such financial assurance instrument is sufficient to cover all taxes imposed by this state and the director shall so notify the awarding entity of the decision within the fourteen days prior to the execution of the contract. Failure to do so by the director shall waive any right to disapprove such financial assurance instrument. Before a financial assurance instrument is released by the entity awarding the contract, a tax clearance shall be obtained from the director of revenue that such transient employer has faithfully complied with all the tax laws of this state.

5. Every transient employer shall certify to the director of revenue that such employer has sufficient workers' compensation insurance either through a self-insurance program or a policy of workers' compensation insurance issued by an approved workers' compensation carrier. The self-insurance program shall be approved by the division of workers' compensation pursuant to section 287.280, RSMo. The insurance policy shall be in a contract form approved by the department of insurance, **financial institutions and professional registration**.

6. In the event that liability upon the financial assurance instrument thus filed by the transient employer shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the director of revenue any surety on a bond theretofore given or financial institution shall have become unsatisfactory or unacceptable, then the director of revenue may require the employer to file a new financial assurance instrument in the same form and amount. If such new financial assurance instrument shall be furnished by such employer as above provided, the director of revenue shall upon satisfaction of any liability that has accrued, release the surety on the old bond or financial institution issuing the irrevocable letter of credit.

7. Any surety on any bond or financial institution issuing an irrevocable letter of credit furnished by any transient employer as provided in this section shall be released and discharged from any and all liability to the state of Missouri accruing on such bond or irrevocable letter of credit after the expiration of sixty days from the date upon which such surety or financial institution shall have lodged with the director of revenue a written request to be released and discharged; but the request shall not operate to relieve, release or discharge such surety or financial institution from any liability already accrued or which shall accrue during and before the expiration of said sixty-day period. The director of revenue shall promptly on receipt of notice of such request notify the employer who furnished such bond or irrevocable letter of credit and such employer shall on or before the expiration of such sixty-day period file with the director of revenue a new financial assurance instrument satisfactory to the director of revenue in the amount and form provided in this section.

8. Notwithstanding the limitation as to the amount of any financial assurance instrument fixed by this section, if a transient employer becomes delinquent in the payment of any tax or tenders a check in payment of tax which check is returned unpaid because of insufficient funds, the director may demand an additional instrument of such employer in an amount necessary, in the judgment of the director, to protect the revenue of the state. The penal sum of the additional instrument and the instrument furnished under the provisions of the law requiring such instrument may not exceed two quarters' estimated tax liability.

9. For any period when a transient employer fails to meet the requirements of this section, there shall be added to any deficiency assessed against a transient employer, in addition to any other addition, interest, and penalties, an amount equal to twenty-five percent of the deficiency.

10. A taxpayer commits the crime of failure to file a financial assurance instrument if he knowingly fails to comply with the provisions of this section.

11. Failure to file a financial assurance instrument is a class A misdemeanor. Pursuant to section 560.021, RSMo, a corporation found guilty of failing to file a financial assurance

instrument may be fined up to five thousand dollars or any higher amount not exceeding twice the amount the employer profited from the commission of the offense.

12. Failing to register with the department of revenue and execute the financial assurance instrument herein provided, prior to beginning the performance of any contract, shall prohibit the employer from performing on such contract until he complies with such requirements.

13. Each employer shall keep full and accurate records clearly indicating the names, occupations, and crafts, if applicable, of every person employed by him together with an accurate record of the number of hours worked by each employee and the actual wages paid. The payroll records required to be so kept shall be open to inspection by any authorized representative of the department of revenue at any reasonable time and as often as may be necessary and such records shall not be destroyed or removed from the state for a period of one year following the completion of the contract in connection with which the records are made.

14. The entering into of any contract for the performance of work in the state of Missouri by any such employer shall be deemed to constitute an appointment of the secretary of state as registered agent of such employer for purposes of accepting service of any process, or of any notice or demand required or permitted by law. The service of any such process, notice or demand, when served on the secretary of state shall have the same legal force and validity as if served upon the employer personally within the state.

15. In addition, any employer who fails to file a financial assurance instrument as required by this section shall be prohibited from contracting for or performing labor on any public works project in this state for a period of one year.

16. Whenever a transient employer ceases to engage in activity within the state it shall be the duty of such transient employer to notify the director of revenue in writing at least ten days prior to the time the discontinuance takes effect.

320.082. FIRE INSURANCE COMPANIES TO REPORT SUSPECTED ARSON TO PROSECUTING OR CIRCUIT ATTORNEY — PROSECUTOR TO REPORT TO OTHER AUTHORIZED PERSONS. — Every insurance company doing the business of fire insurance within this state which shall have reason to believe that any fire loss reported to it is the result of arson or incendiarism shall forthwith report the same along with all relevant facts thereof to the prosecuting or circuit attorney of the city or county in which said fire loss occurred and the prosecuting or circuit attorney shall acknowledge receipt. The prosecuting or circuit attorney shall give notification of receipt and shall provide such report, upon request, to the state fire marshal, the [division] **department of insurance, financial institutions and professional registration** and the law enforcement agency having jurisdiction over the fire loss.

324.001. DIVISION OF PROFESSIONAL REGISTRATION ESTABLISHED, DUTIES — BOARDS AND COMMISSIONS ASSIGNED TO — REFERENCE TO DIVISION IN STATUTES. — 1. For the purposes of this section, the following terms mean:

(1) "Department", the department of insurance, financial institutions and professional registration;

(2) "Director", the director of the division of professional registration; and

(3) "Division", the division of professional registration.

2. There is hereby established a "Division of Professional Registration" assigned to the department of insurance, financial institutions and professional registration as a type III transfer, headed by a director appointed by the governor with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel.

3. The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates,

no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall issue the original license or certificate.

4. The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

5. The director of the division shall maintain a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

6. For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subsection 5 of this section. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.

7. The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly

transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

8. All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

9. Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

10. A compelling governmental interest shall be deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue.

11. (1) The following boards and commissions are assigned by specific type transfers to the division of professional registration: Missouri state board of accountancy, chapter 326, RSMo; board of cosmetology and barber examiners, chapters 328 and 329, RSMo; state board of registration for architects, professional engineers and professional land surveyors and landscape architects, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of registration for the healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board, chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration, and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of insurance, financial institutions and professional registration. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

12. All the powers, duties, and functions of the division of athletics, chapter 317, RSMo, and others, are assigned by type I transfer to the division of professional registration.

13. Wherever the laws, rules, or regulations of this state make reference to the "division of professional registration of the department of economic development", such references shall be deemed to refer to the division of professional registration.

324.002. COMPLAINT PROCEDURE TO BE ESTABLISHED BY BOARDS AND COMMISSIONS. — Each board or commission shall receive complaints concerning its licensees' business or professional practices. Each board or commission shall establish by rule a procedure for the handling of such complaints prior to the filing of formal complaints before the administrative hearing commission. The rule shall provide, at a minimum, for the logging of each complaint received, the recording of the licensee's name, the name of the complaining party, the date of the complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall provide for informing the complaining party of the progress of the investigation, the dismissal of the charges or the filing of a complaint before the administrative hearing commission.

324.016. CONTINGENT EFFECTIVE DATE FOR STATUTORY REQUIREMENTS OF THE DIVISION — BORROWING OF FUNDS PERMITTED, WHEN. — No new licensing activity or other statutory requirements assigned to the division of professional registration shall become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as required and the initial rules filed, if appropriate, have become effective. The director of the division of professional registration shall have the authority to borrow funds from any agency within the division to commence

operations upon appropriation for such purpose. This authority shall cease at such time that a sufficient fund has been established by the agency to fund its operations and repay the amount borrowed.

324.017. DISCLOSURE OF COMPLAINTS, REQUIREMENTS. — 1. Contrary provisions of the law notwithstanding, no complaint, investigatory report, or information received from any source must be disclosed prior to its review by the appropriate agency.

2. At its discretion an agency may disclose complaints, completed investigatory reports, and information obtained from state administrative and law enforcement agencies to a licensee or license applicant in order to further an investigation or to facilitate settlement negotiations.

3. Information obtained from a federal administrative or law enforcement agency shall be disclosed only after the agency has obtained written consent to the disclosure from the federal administrative or law enforcement agency.

4. At its discretion an agency may disclose complaints and investigatory reports in the course of a voluntary interstate exchange of information, or in the course of any litigation concerning a licensee or license applicant, or pursuant to a lawful request, or to other state or federal administrative or law enforcement agencies.

5. Except as disclosure is specifically provided above and in section 610.021, RSMo, deliberations, votes, or minutes of closed proceedings of agencies shall not be subject to disclosure or discovery.

324.021. APPOINTMENTS TO BOARDS, AFFIRMATIVE ACTION REQUIRED. — When making appointments to the boards governed by sections 209.285 to 209.339, RSMo, sections 256.010 to 256.453, RSMo, this chapter, and chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, the governor shall take affirmative action to appoint women and members of minority groups. In addition, the governor shall not discriminate against or in favor of any person on the basis of race, sex, religion, national origin, ethnic background, or language.

324.022. RULEMAKING AUTHORITY. — No rule or portion of a rule promulgated under the authority of sections 209.285 to 209.339, RSMo, sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453, RSMo, this chapter, and chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

324.024. APPLICATIONS TO CONTAIN SOCIAL SECURITY NUMBERS, EXCEPTIONS. — Notwithstanding any provision of law to the contrary, every application for a license, certificate, registration, or permit, or renewal of a license, certificate, registration, or permit issued in this state shall contain the Social Security number of the applicant. This provision shall not apply to an original application for a license, certificate, registration, or permit submitted by a citizen of a foreign country who has never been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country applying for licensure with the division of professional registration shall be required to submit his or her visa or passport identification number in lieu of the Social Security number.

324.026. ORIENTATION PROGRAM FOR APPOINTEES REQUIRED, PURPOSE. — An orientation program for appointees to all boards or commissions in the division of professional registration shall be prepared under the direction of the director of the division, which shall acquaint new appointees with their duties and provide available

information on subject matters of concern to the board or commission to which each public member has been appointed.

324.028. FORFEITURE OF MEMBERSHIP ON BOARD OR COUNCIL FOR MISSING MEETINGS. — Any member authorized under the provisions of sections 256.459, RSMo, 324.063, 324.177, 324.203, 324.243, 324.406, and 324.478, 326.259, RSMo, 327.031, RSMo, 328.030, RSMo, 329.190, RSMo, 330.110, RSMo, 331.090, RSMo, 332.021, RSMo, 333.151, RSMo, 334.120, 334.430, 334.625, 334.717, 334.736, and 334.830, RSMo, 335.021, RSMo, 336.130, RSMo, 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.210, RSMo, 345.080, RSMo, and 346.120, RSMo, who misses three consecutive regularly scheduled meetings of the board or council on which he serves shall forfeit his membership on that board or council. A new member shall be appointed to the respective board or council by the governor with the advice and consent of the senate.

324.029. FELONY CONVICTION NOT A BAR TO LICENSURE, WHEN. — Except as otherwise specifically provided by law, no license for any occupation or profession shall be denied solely on the grounds that an applicant has been previously convicted of a felony.

324.031. COLLECTION AND DEPOSIT OF FEES, REQUIREMENTS. — 1. All fees charged by each board assigned to the division of professional registration shall be collected by that division and promptly transmitted to the department of revenue for deposit in the state treasury, credited to the proper account as provided by law.

2. The division and its component agencies shall permit any licensee to submit payment for fees established by rule in the form of personal check, money order, or cashier's check. All checks or money orders shall be made payable to the appropriate board. Any check or financial instrument which is returned to the division or one of its agencies due to insufficient funds, a closed account, or for other circumstances in which the check or financial instrument is not honored may subject an individual to additional costs, substantial penalties, or other actions by the division or one of its agencies. In such cases involving renewal of licenses, the renewal license may be withheld, and if issued, is not valid until the appropriate fee and any additional costs are collected. The division may require the payment of collection costs or other expenses. The affected board may establish penalty fees by rule and may suspend or revoke a license if such behavior is repetitive or the licensee fails to pay required penalty fees.

3. License renewal fees are generally nonrefundable. Overpayments or other incorrect fees may be refundable. The division shall establish a refund reserve through the appropriation to the professional registration fees fund.

4. Notwithstanding any other provision of law to the contrary, no board, commission, or any other registration, licensing, or certifying agency of the division of professional registration shall be required to collect or distribute any fee which is required for administering any test to qualify for a license, registration, or certificate, if any portion of the fee is to be remitted to a private testing service.

324.032. REGISTRY OF LICENSES, PERMITS, AND CERTIFICATES ISSUED, CONTENTS — COPYING OF REGISTRY INFORMATION. — The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit, or certificate issued by that board. The registry shall contain the name, Social Security number, and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the registrant's Social Security number, shall be

available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the division of child support enforcement. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be charged to the board. An official copy of any such publication shall be filed with the director.

324.034. DESTRUCTION OF RECORDS PERMITTED, WHEN — REPRODUCTIONS MAY BE USED AS ORIGINALS, WHEN — RECORDS AND DOCUMENTS DEFINED. — 1. Notwithstanding other provisions of law, the director of the division of professional registration may destroy records and documents of the division or the boards in the division at any time if such records and documents have been photographed, microphotographed, imaged, electronically generated, electronically recorded, photostatted, reproduced on film, or other process capable of producing a clear, accurate, and permanent copy of the original. Such film or reproducing material shall be of durable material and the device used to reproduce the records, reports, returns, and other related documents on film or material shall be such as to accurately reproduce and perpetuate the original records and documents in all details.

2. The reproductions so made may be used as permanent records of the original. When microfilm, electronic image, or a similar reproduction is used as a permanent record by the director of revenue, one copy shall be stored in a fireproof vault and other copies may be made for use by any person entitled thereto. All reproductions shall retain the same confidentiality as is provided in the law regarding the original record.

3. Such photostatic copy, photograph, microphotograph, image, electronically generated, electronically recorded, or other process copy shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A transcript, exemplification, or certified copy of any records or documents made from such photostatic copy, photograph, microphotograph, electronically generated, electronically recorded, or other process copy shall, for all purposes be deemed to be a transcript, exemplification, or certified copy of the original and shall be admissible in evidence in all courts or administrative agencies. No document shall be admissible pursuant to this section unless the offeror shall comply with section 490.692, RSMo, when applicable.

4. "Records and documents" include, but are not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded image or information, deposited or filed with the division of professional registration or any of the boards in the division.

324.036. FEE COLLECTION, ACCOUNTING, AND DEPOSIT, DIVISION MAY CONTRACT FOR SERVICES. — Notwithstanding any other law to the contrary, the director of the division of professional registration is authorized to contract with third parties to collect, account for, and deposit fees on behalf of the division and licensing agencies within the division.

324.038. ISSUANCE OF LICENSE SUBJECT TO PROBATION PERMITTED, WHEN, PROCEDURE. — 1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as

an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621, RSMo. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.

324.039. CLASSIFICATION CREATED FOR LICENSEES REMOVING THEMSELVES FROM LICENSING SYSTEM. — There shall be established in each board within the division of professional registration, including the division itself when empowered with licensing authority, which was on August 28, 1998, required or authorized to revoke a license for failure to submit an application for renewal, failure to provide information required for renewal or nonpayment of the required renewal fee, a classification for a licensee who, desires to remove himself or herself from participating in the licensing system of the board or division. This classification shall be distinguished from revocation of a license and from surrender of a license pursuant to an agreement between the board or division and the licensee filed with and approved by the administrative hearing commission. This classification shall not be available to a licensee during the time there is an investigation of the licensee or the licensee's practices or during the pendency of a disciplinary complaint filed with the administrative hearing commission. Each board within the division or the division when empowered with licensing authority shall establish by rule qualifications for such classification and procedures for a licensee to request an inactive license as provided in this section. Notwithstanding any other law to the contrary, no board within the division or the division shall be required to revoke a license when the licensee qualifies for the classification authorized by this section, as provided by rule. An inactive license authorized by this section shall be subject to the same requirements for reinstatement or restoration as a lapsed, expired, or revoked license due to failure to renew the license. This section shall not affect those boards which are otherwise authorized to classify a license as inactive.

324.041. TESTING POSITIVE FOR A CONTROLLED SUBSTANCE, PRESUMPTION OF ILLEGAL POSSESSION. — For the purpose of determining whether cause for discipline or denial exists under the statutes of any board, commission, or committee within the division of professional registration, any licensee, registrant, permittee, or applicant that test

positive for a controlled substance, as defined in chapter 195, RSMo, is presumed to have unlawfully possessed the controlled substance in violation of the drug laws or rules and regulations of this state, any other state, or the federal government unless he or she has a valid prescription for the controlled substance. The burden of proof that the controlled substance was not unlawfully possessed in violation of the drug laws or rules and regulations of this state, any other state, or the federal government is upon the licensee, registrant, permittee, or applicant.

324.042. ADDITIONAL DISCIPLINE PERMITTED, WHEN. — Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

324.043. STATUTE OF LIMITATIONS FOR DISCIPLINARY PROCEEDINGS — NOTICE REQUIREMENTS — TOLLING, WHEN. — 1. Except as provided in this section, no disciplinary proceeding against any person or entity licensed, registered, or certified to practice a profession within the division of professional registration shall be initiated unless such action is commenced within three years of the date upon which the licensing, registering, or certifying agency received notice of an alleged violation of an applicable statute or regulation.

2. For the purpose of this section, notice shall be limited to:

- (1) A written complaint;
- (2) Notice of final disposition of a malpractice claim, including exhaustion of all extraordinary remedies and appeals;
- (3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction based upon a criminal statute of this state, any other state, or the federal government;
- (4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary action by a hospital, state licensing, registering or certifying agency, or an agency of the federal government.

3. For the purposes of this section, an action is commenced when a complaint is filed by the agency with the administrative hearing commission, any other appropriate agency, or in a court; or when a complaint is filed by the agency's legal counsel with the agency in respect to an automatic revocation or a probation violation.

4. Disciplinary proceedings based upon repeated negligence shall be exempt from all limitations set forth in this section.

5. Disciplinary proceedings based upon a complaint involving sexual misconduct shall be exempt from all limitations set forth in this section.

6. Any time limitation provided in this section shall be tolled:

- (1) During any time the accused licensee, registrant, or certificant is practicing exclusively outside the state of Missouri or residing outside the state of Missouri and not practicing in Missouri;
- (2) As to an individual complainant, during the time when such complainant is less than eighteen years of age;
- (3) During any time the accused licensee, registrant, or certificant maintains legal action against the agency; or
- (4) When a settlement agreement is offered to the accused licensee, registrant, or certificant, in an attempt to settle such disciplinary matter without formal proceeding pursuant to section 621.045, RSMo, until the accused licensee, registrant, or certificant rejects or accepts the settlement agreement.

7. The licensing agency may, in its discretion, toll any time limitation when the accused licensee, registrant, or certificant enters into and participates in a treatment program for chemical dependency or mental impairment.

324.050. OCCUPATIONAL THERAPY PRACTICE ACT — DEFINITIONS. — 1. Sections 324.050 to 324.089 shall be known and may be cited as the "Occupational Therapy Practice Act".

2. For the purposes of sections 324.050 to 324.089, the following terms mean:

- (1) "Board", the Missouri board of occupational therapy;
- (2) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
- (3) "Director", the director of the division of professional registration;
- (4) "Division", the division of professional registration [of the department of economic development];

(5) "Occupational therapist", a person licensed to practice occupational therapy as defined in this section and whose license issued pursuant to sections 324.050 to 324.089;

(6) "Occupational therapy", the use of purposeful activity or interventions designed to achieve functional outcomes which promote health, prevent injury or disability and which develop, improve, sustain or restore the highest possible level of independence of any individual who has an injury, illness, cognitive impairment, psychosocial dysfunction, mental illness, developmental or learning disability, physical disability or other disorder or condition. It shall include assessment by means of skill observation or evaluation through the administration and interpretation of standardized or nonstandardized tests and measurements. Occupational therapy services include, but are not limited to:

(a) The assessment and provision of treatment in consultation with the individual, family or other appropriate persons;

(b) Interventions directed toward developing, improving, sustaining or restoring daily living skills, including self-care skills and activities that involve interactions with others and the environment, work readiness or work performance, play skills or leisure capacities or enhancing educational performances skills;

(c) Developing, improving, sustaining or restoring sensorimotor, oral-motor, perceptual or neuromuscular functioning; or emotional, motivational, cognitive or psychosocial components of performance; and

(d) Education of the individual, family or other appropriate persons in carrying out appropriate interventions.

Such services may encompass assessment of need and the design, development, adaptation, application or training in the use of assistive technology devices; the design, fabrication or application of rehabilitative technology such as selected orthotic devices, training in the use of orthotic or prosthetic devices; the application of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness;

(7) "Occupational therapy aide", a person who assists in the practice of occupational therapy under the direct supervision of an occupational therapist or occupational therapy assistant at all times and whose activities require an understanding of occupational therapy but do not require training in the basic anatomical, biological, psychological and social sciences involved in the practice of occupational therapy;

(8) "Occupational therapy assistant", a person who is licensed as an occupational therapy assistant by the division, in collaboration with the board. The function of an occupational therapy assistant is to assist an occupational therapist in the delivery of occupational therapy services in compliance with federal regulations and rules promulgated by the division, in collaboration with the Missouri board of occupational therapy.

324.128. DEFINITIONS. — As used in sections 324.125 to 324.183, the following terms mean:

- (1) "Board", the state board of registration for the healing arts;
- (2) "Division", the division of professional registration [of the department of economic development];
- (3) "Extracorporeal circulation", the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs;
- (4) "Licensed clinical perfusionist", a person licensed pursuant to sections 324.125 to 324.183;
- (5) "Perfusion", the functions necessary for the support, treatment, measurement or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of such activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a licensed physician, including:
 - (a) The use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation and associated therapeutic and diagnostic technologies;
 - (b) Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support and isolated limb perfusion;
 - (c) The use of techniques involving blood management, advanced life support and other related functions; and
 - (d) In the performance of the acts described in this subdivision:
 - a. The administration of:
 - i. Pharmacological and therapeutic agents;
 - ii. Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician;
 - b. The performance and use of:
 - i. Anticoagulation monitoring and analysis;
 - ii. Physiologic monitoring and analysis;
 - iii. Blood gas and chemistry monitoring and analysis;
 - iv. Hematologic monitoring and analysis;
 - v. Hypothermia and hyperthermia;
 - vi. Hemoconcentration and hemodilution;
 - vii. Hemodialysis;
 - c. The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, clinical perfusion protocols or changes in, or the initiation of, emergency procedures;
- (6) "Perfusion protocols", perfusion-related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed clinical perfusionists and other health care professionals;
- (7) "Provisional clinical licensed perfusionist", a person provisionally licensed pursuant to sections 324.125 to 324.183.

324.159. BOARD DUTIES. — The board shall:

- (1) Adopt and publish a code of ethics;
- (2) Establish the qualifications and fitness of applicants of licenses, renewal of licenses and reciprocal licenses;
- (3) Revoke, suspend or deny a license, suspend a license or reprimand a license holder for a violation of sections 324.125 to 324.183, the code of ethics or the rules adopted by the board;

(4) Provide for the expenditure of funds necessary for the proper administration of its assigned duties;

(5) Establish reasonable and necessary fees for the administration and implementation of sections 324.125 to 324.183. Fees shall be established at a rate that does not significantly exceed the cost of administering the provisions of sections 324.125 to 324.183;

(6) Establish continuing professional education requirements for licensed clinical perfusionists and provisional licensed clinical perfusionists, the standards of which shall be at least as stringent as those of the American Board of Cardiovascular Perfusion or its successor agency;

(7) Within the limits of its appropriation, employ and remove board personnel, as defined in subdivision (4) of subsection [15] **10** of section [620.010, RSMo,] **324.001** as may be necessary for the efficient operation of the board;

(8) Adopt the training and clinical competency requirements established by the department of health and senior services through hospital licensing regulations promulgated pursuant to chapter 197, RSMo. The provisions of sections 324.125 to 324.183 to the contrary notwithstanding, the board shall not regulate a perfusionist's training, education or fitness to practice except as specifically provided by the hospital licensing regulations of the department of health and senior services. In promulgating such regulations, the department of health and senior services shall adopt the standards of the American Board of Cardiovascular Perfusion, or its successor organization, or comparable standards for training and experience. The department shall by rule and regulation provide that individuals providing perfusion services who do meet such standards may continue their employment in accordance with section 324.130. The department shall also establish standards for provisional licensed clinical perfusionists pursuant to section 324.147.

324.200. DIETITIAN PRACTICE ACT — DEFINITIONS. — 1. Sections 324.200 to 324.225 shall be known and may be cited as the "Dietitian Practice Act".

2. As used in sections 324.200 to 324.225, the following terms shall mean:

(1) "Commission on Accreditation for Dietetics Education (CADE)", the American Dietetic Association's accrediting agency for education programs preparing students for professions as registered dietitians;

(2) "Committee", the state committee of dietitians established in section 324.203;

(3) "Dietetics practice", the application of principles derived from integrating knowledge of food, nutrition, biochemistry, physiology, management, and behavioral and social science to achieve and maintain the health of people by providing nutrition assessment and nutrition care services. The primary function of dietetic practice is the provision of nutrition care services that shall include, but not be limited to:

(a) Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting;

(b) Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints;

(c) Providing nutrition counseling or education in health and disease;

(d) Developing, implementing, and managing nutrition care systems;

(e) Evaluating, making changes in, and maintaining appropriate standards of quality and safety in food and in nutrition services;

(f) Engaged in medical nutritional therapy as defined in subdivision (8) of this section;

(4) "Dietitian", one engaged in dietetic practice as defined in subdivision (3) of this section;

(5) "Director", the director of the division of professional registration [in the department of economic development];

(6) "Division", the division of professional registration [of economic development];

(7) "Licensed dietitian", a person who is licensed pursuant to the provisions of sections 324.200 to 324.225 to engage in the practice of dietetics or medical nutrition therapy;

- (8) "Medical nutrition therapy", nutritional diagnostic, therapy, and counseling services which are furnished by a registered dietitian;
- (9) "Registered dietitian", a person who:
 - (a) Has completed a minimum of a baccalaureate degree granted by a United States regionally accredited college or university or foreign equivalent;
 - (b) Completed the academic requirements of a didactic program in dietetics, as approved by CADE;
 - (c) Successfully completed the registration examination for dietitians; and
 - (d) Accrued seventy-five hours of approved continuing professional units every five years; as determined by the committee on dietetic registration.

324.203. STATE COMMITTEE OF DIETITIANS ESTABLISHED, MEMBERSHIP, TERMS, REMOVAL, QUALIFICATIONS, COMPENSATION, MEETINGS, QUORUM, POWERS AND DUTIES.

— 1. There is hereby created within the division of professional registration, a committee to be known as the "State Committee of Dietitians". The committee shall assist the division in administering and enforcing the provisions of sections 324.200 to 324.225, adopt, publish, and enforce such rules and regulations within the scope and purview of the provisions of sections 324.200 to 324.225 as may be considered to be necessary or proper for the effective administration and interpretation of the provisions of sections 324.200 to 324.225, and for the conduct of its business and management of its internal affairs.

2. The committee shall approve the examination required by section 324.210.

3. The committee shall consist of six members including one public member, appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state, and, except as provided in this section and except for the first members appointed, shall be licensed as a dietitian by this state. Beginning with the first appointments made after August 28, 1998, two members shall be appointed for four years, two members shall be appointed for three years and two members shall be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for a total of eight years. The membership of the committee shall reflect the differences in levels of education and work experience with consideration being given to race, gender, and ethnic origins. No more than three members shall be from the same political party. The membership shall be representative of the various geographic regions of the state.

4. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

5. Each member of the committee shall receive as compensation an amount set by the division not to exceed fifty dollars, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director[, in collaboration with the department of economic development,] **of the division of professional registration** shall establish by rule, guidelines for payment. All staff for the committee shall be provided by the division.

6. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the committee shall consist of a majority of its members.

7. The governor may remove a committee member for misconduct, incompetency, neglect of the member's official duties, or for cause.

8. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated by sections 324.200 to 324.225, or the spouse of such a person; and a person who does not have and never has had a

material financial interest in either the providing of the professional services regulated by sections 324.200 to 324.225, or an activity or organization directly related to any profession licensed or regulated by sections 324.200 to 324.225. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

324.240. DEFINITIONS. — As used in sections 324.240 to 324.275, the following terms shall mean:

- (1) "Board", the board of therapeutic massage;
- (2) "Certified mentor", a practitioner who is qualified for license in this state pursuant to sections 324.240 to 324.275 and who has practiced professionally for five years, with an average of four hundred fifty hours per year of teaching and massage hours and who has been approved by the board as a massage therapy instructor;
- (3) "Director", the director of the division of professional registration [of the department of economic development];
- (4) "Division", the division of professional registration [of the department of economic development];
- (5) "Massage business", any place of business in which massage therapy is practiced;
- (6) "Massage therapist", a health care practitioner who provides or offers to provide massage therapy, as provided in sections 324.240 to 324.275, to any person at no cost or for a fee, monetary or otherwise, implying that the massage therapist is trained, experienced and licensed in massage therapy, and who holds a current, valid license to practice massage therapy;
- (7) "Massage therapy", a health care profession which involves the treatment of the body's tonus system through the scientific or skillful touching, rubbing, pressing or other movements of the soft tissues of the body with the hands, forearms, elbows, or feet, or with the aid of mechanical apparatus, for relaxation, therapeutic, remedial or health maintenance purposes to enhance the mental and physical well-being of the client, but does not include the prescription of medication, spinal or joint manipulation, the diagnosis of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law, or to those occupations defined in chapter 329, RSMo;
- (8) "Massage therapy instructor", an individual who possesses teaching credentials satisfactory to the board for the purpose of teaching massage therapy;
- (9) "Person", an individual, corporation, association or other legal entity.

324.243. BOARD OF THERAPEUTIC MASSAGE, MEMBERS, TERMS, MEETINGS, REMOVAL, COMPENSATION. — 1. There is hereby established in the division of professional registration [in the department of economic development] the "Board of Therapeutic Massage" which shall guide, advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.240 to 324.275. The board shall approve the examination required by section 324.265 and shall assist the division in carrying out the provisions of sections 324.240 to 324.275.

2. The board shall consist of seven voting members, including one public member, and one nonvoting member, appointed by the governor with the advice and consent of the senate. Each member of the board shall be a citizen of the United States and a resident of this state and, except for the members first appointed, shall be licensed as a massage therapist by this state. The nonvoting member shall be a member of the massage education community in the state and shall serve a four-year term. Beginning with the appointments made after August 28, 1998, three voting members shall be appointed for four years, two voting members shall be appointed for three years and two voting members shall be appointed for two years. Thereafter, all voting members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the board for a total of eight years. The

membership of the board shall reflect the differences in work experience and the professional affiliations of therapists with consideration being given to race, gender and ethnic origins.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. The board shall hold an annual meeting at which it shall elect from its membership a chairperson, vice chairperson and secretary. The board may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its voting members.

5. The governor may remove a board member for misconduct, incompetence or neglect of official duties after giving the board member written notice of the charges and allowing the board member an opportunity to be heard.

6. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; but may not have been a member of any profession licensed or regulated pursuant to sections 324.240 to 324.275 or an immediate family member of such a person; and may not have had a material, financial interest in either the providing of massage therapy as defined in sections 324.240 to 324.275 or in an activity or organization directly related to any profession licensed or regulated pursuant to sections 324.240 to 324.275. The duties of the public member shall not include any determination of the technical requirements to be met for licensure, whether a candidate for licensure meets such technical requirements, or of the technical competence or technical judgment of a licensee or a candidate for licensure.

7. The professional members shall not be officers in a professional massage organization, nor may they be the owners or managers of any massage educational entity.

8. Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the board shall be provided by the division.

324.400. DEFINITIONS. — As used in sections 324.400 to 324.439, the following terms mean:

- (1) "Council", the interior design council created in section 324.406;
- (2) ["Department", the department of economic development;
- (3)] "Division", the division of professional registration [of the department of economic development];

[(4)] (3) "Registered interior designer", a design professional who provides services including preparation of documents and specifications relative to nonload-bearing interior construction, furniture, finishes, fixtures and equipment and who meets the criteria of education, experience and examination as provided in sections 324.400 to 324.439.

324.406. INTERIOR DESIGN COUNCIL CREATED, MEMBERS, TERMS, REMOVAL FOR CAUSE. — 1. There is hereby created within the division of professional registration a council to be known as the "Interior Design Council". The council shall consist of four interior designers and one public member appointed by the governor with the advice and consent of the senate. The governor shall give due consideration to the recommendations by state organizations of the interior design profession for the appointment of the interior design members to the council. Council members shall be appointed to serve a term of four years; except that of the members first appointed, one interior design member and the public member shall be appointed for terms of four years, one member shall be appointed for a term of three years, one member shall be appointed for a term of two years and one member shall be appointed for a term of one year. No member of the council shall serve more than two terms.

2. Each council member, other than the public member, shall be a citizen of the United States, a resident of the state of Missouri for at least one year, meet the qualifications for professional registration, practice interior design as the person's principal livelihood and, except for the first members appointed, be registered pursuant to sections 324.400 to 324.439 as an interior designer.

3. The public member shall be, at the time of such person's appointment, a citizen of the United States, a registered voter, a person who is not and never was a member of the profession regulated by sections 324.400 to 324.439 or the spouse of such a person and a person who does not have and never has had a material financial interest in the providing of the professional services regulated by sections 324.400 to 324.439. The duties of the public member shall not include the determination of the technical requirements for the registration of persons as interior designers. The provisions of section [620.132, RSMo.] **324.028** pertaining to public members of certain state boards and commissions shall apply to the public member of the council.

4. Members of the council may be removed from office for cause. Upon the death, resignation or removal from office of any member of the council, the appointment to fill the vacancy shall be for the unexpired portion of the term so vacated and shall be filled in the same manner as the first appointment and due notice be given to the state organizations of the interior design profession prior to the appointment.

5. Each member of the council may receive as compensation an amount set by the division not to exceed fifty dollars per day and shall be reimbursed for the member's reasonable and necessary expenses incurred in the official performance of the member's duties as a member of the council. The director[, in collaboration with the department of economic development,] shall establish by rule, guidelines for payment.

6. The council shall meet at least twice each year and advise the division on matters within the scope of sections 324.400 to 324.439. The organization of the council shall be established by the members of the council.

7. The council may sue and be sued as the interior design council and the council members need not be named as parties. Members of the council shall not be personally liable either jointly or severally for any act committed in the performance of their official duties as council members. No council member shall be personally liable for any costs which accrue in any action by or against the council.

324.475. DEFINITIONS. — For the purposes of sections 324.475 to 324.499, the following terms mean:

(1) "Acupuncture", the use of needles inserted into the body by piercing of the skin and related modalities, for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body so as to restore the body to its proper functioning and state of health;

(2) "Acupuncturist", any person licensed as provided in sections 324.475 to 324.499, to practice acupuncture as defined in subdivision (1) of this section;

(3) "Auricular detox technician", a person trained solely in, and who performs only, auricular detox treatment. An auricular detox technician shall practice under the supervision of a licensed acupuncturist. Such treatment shall take place in a hospital, clinic or treatment facility which provides comprehensive substance abuse services, including counseling, and maintains all licenses and certifications necessary and applicable;

(4) "Auricular detox treatment", a very limited procedure consisting of acupuncture needles inserted into specified points in the outer ear of a person undergoing treatment for drug or alcohol abuse or both drug and alcohol abuse;

(5) "Board", the state board of chiropractic examiners established in chapter 331, RSMo;

(6) "Committee", the Missouri acupuncture advisory committee;

(7) "Department", the [Missouri] department of [economic development] **insurance, financial institutions and professional registration;**

- (8) "Director", the director of the division of professional registration;
- (9) "Division", the division of professional registration [of the department of economic development];
- (10) "License", the document of authorization issued by the board for a person to engage in the practice of acupuncture.

324.526. TEMPORARY LICENSE ISSUED, WHEN. — 1. Notwithstanding any other law to the contrary, the director of the division of professional registration shall issue a temporary license to practice tattooing, body piercing, or branding under the following requirements:

(1) The applicant for temporary licensure is entering the state for the sole purpose of participating in a state or national convention at which the applicant will be practicing the profession of tattooing, body piercing, or branding;

(2) The applicant files a completed application with the division at least two days prior to the start of the convention and tenders a fee of fifty dollars; and

(3) The applicant is otherwise qualified for licensure under sections 324.520 to 324.526 and the rule promulgated under the authority of this statute.

2. A temporary license to practice tattooing, body piercing, or branding issued under this section shall be valid for a period not to exceed fourteen days and shall not be renewable.

3. Notwithstanding the requirements of sections [620.127] **324.024** and [620.145, RSMo] **324.032**, an applicant for temporary licensure under this section shall not be required to provide a Social Security number if the application is submitted by a citizen of a foreign country who has not yet been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country who applies for a temporary permit under this section shall provide the division of professional registration with his or her visa or passport identification number in lieu of the Social Security number.

325.010. DEFINITIONS. — As used in sections 325.010 to 325.055, unless the context clearly requires another meaning, the following words and phrases mean:

(1) "Director", the director of the [division] **department** of insurance [of the state of Missouri], **financial institutions and professional registration**;

(2) "Public adjuster", any person, partnership, association or corporation engaging in the adjustment or settlement of claims for losses or damages arising out of policies of fire or allied lines of insurances; but does not include persons, partnerships, associations or corporations engaged in the adjustment or settlement of claims for losses or damages arising out of other types of policies for casualty insurance; and does not include attorneys at law; and does not include an agent or employee of an issuer of policies of insurance against loss or damage by fire or allied casualty; nor to an insurance broker acting as an adjuster without compensation for a client for whom he is acting as broker;

(3) "Public adjuster solicitor", any person, other than clerical employees, employed by a public adjuster who solicits or aids in securing any contract for adjustment for a public adjuster, or who acts for or with a public adjuster in making settlements or adjustments of claims.

326.256. DEFINITIONS. — 1. As used in this chapter, the following terms mean:

(1) "AICPA", the American Institute of Certified Public Accountants;

(2) "Attest" or "**attest services**", providing the following financial statement services:

(a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); **or**

(c) **Any engagement to be performed in accordance with the auditing standards and rules of the Public Company Accounting Oversight Board (PCAOB);**

(3) "Board", the Missouri state board of accountancy established [pursuant to] **under** section 326.259 or its predecessor pursuant to prior law;

(4) "Certificate", a certificate issued [pursuant to] **under** section 326.060 prior to August 28, 2001;

(5) "Certified public accountant" or "CPA", the holder of a certificate or license as defined in this section;

(6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit [pursuant to] **under** section 326.289;

(7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;

(8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements;

(9) **"Home office", the location specified by the client as the address to which attest, compilation, or review services are directed;**

(10) "License", a license issued [pursuant to] **under** section 326.280, or [a provisional license issued pursuant to] **privilege to practice under** section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;

[(10)] (11) "Licensee", the holder of a license as defined in this section;

[(11)] (12) "Manager", a manager of a limited liability company;

[(12)] (13) "Member", a member of a limited liability company;

[(13)] (14) "NASBA", the National Association of State Boards of Accountancy;

[(14)] (15) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm being reviewed pursuant to the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by regulation of the board which meets or exceeds the AICPA standards;

[(15)] (16) "Permit", a permit to practice as a certified public accountant firm issued [pursuant to] **under** section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

[(16)] (17) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;

[(17)] (18) "Public accounting":

(a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills, or one or more management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;

(b) Signing or affixing a name, with any wording indicating the person or entity has expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform, or actually performing on behalf of clients, professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records;

[(18)] (19) "Report", when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any

financial statements, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence, or both;

[(19)] (20) "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;

[(20)] (21) "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

[(21)] (22) "Substantial equivalency" or "**substantially equivalent**", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;

[(22)] (23) "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.

2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule.

326.265. OFFICERS ELECTED BY BOARD, EMPLOYMENT OF LEGAL COUNSEL AND PERSONNEL — CONTINUING EDUCATION COMMITTEE, DUTIES. — 1. The board shall elect annually one of its members as president, one as vice president, one as secretary and one as treasurer, and shall make an annual report to the governor and the general assembly. The board shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to the board and all affidavits and other verified documents, and shall keep accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal shall constitute and have the full force and effect of the original.

2. The board may employ legal counsel and board personnel as defined in subdivision (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, and incur such travel and other expense as in its judgment shall be necessary for the effective administration of this chapter.

3. The board may also appoint a continuing education committee of not less than five members consisting of certified public accountants of this state. Such committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to the provisions of section 326.271; and

(3) Consider other matters regarding continuing education as may be assigned by the board.

326.283. RECIPROCITY FOR OUT-OF-STATE ACCOUNTANTS — LICENSEE OF THIS STATE COMMITTING ACT IN ANOTHER STATE, EFFECT. — 1. (1) An individual whose principal place of business, **domicile, or residency** is not in this state and [has] **who holds** a valid [designation] **and unrestricted license** to practice public accounting from any state which the board **or its designee** has determined by rule to be in substantial equivalence with the licensure requirements of [sections 326.250 to 326.331] **this chapter**, or if the individual's qualifications are substantially equivalent to the licensure requirements of [sections 326.250 to 326.331] **this chapter**, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state[, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The board by rule may require individuals to obtain a license] **without the need to obtain a license or to otherwise notify or register with the board or pay any fee. Provided, however, the board may by rule require individuals with a valid but restricted license to obtain a license.**

(2) [Any] **An individual who qualifies for the privilege to practice under this section, may offer or render professional services in this state, whether in person, by mail, telephone, or electronic means, and no notice or other submission shall be required of any such individual.**

(3) **An individual licensee** of another state exercising the privilege afforded [pursuant to] **under** this section [consents] **and the firm which employs such licensee hereby simultaneously consent**, as a condition of the grant of this privilege [to]:

(a) **To** the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) **To** comply with this chapter and the board's rules; [and]

(c) **That in the event the license from any state is no longer valid or unrestricted, the individual shall cease offering or rendering professional services in this state individually and on behalf of a firm; and**

(d) **To** the appointment of the state board [which] **that** issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

(4) **An individual who has been granted the privilege to practice under this section who performs attest services for an entity with a home office in this state, shall only do so through a firm which has obtained a permit issued under section 326.289.**

[(3)] (5) Nothing in this [section] **chapter** shall prohibit temporary practice in this state for professional business incidental to a CPA's regular practice outside this state. "Temporary practice" means that practice [which is a continuation or extension] **related to the direct purpose** of an engagement for a client located outside this state, which engagement began outside this state and extends into this state through common ownership, existence of a subsidiary, assets or other operations located within this state.

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of another state.

326.289. ISSUANCE AND RENEWAL OF PERMITS, PROCEDURE. — 1. The board may grant or renew permits to practice as a certified public accounting firm to [entities] **applicants** that [make application and] demonstrate their qualifications in accordance with this [section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued pursuant to this section to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm] **chapter.**

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- (1) The following shall hold a permit issued under this chapter:
- (a) Any firm with an office in this state, as defined by the board by rule, performing attest services;
- (b) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; and
- (c) Any firm that does not have an office in this state performing attest services for a client having a home office in this state.
- (2) A firm which does not have an office in this state may perform compilation and review services for a client having a home office in this state and may use the title "CPA" or "CPA firm" without a permit issued under this section only if it:
- (a) Has the qualifications described in subsections 4 and 9 of this section; and
- (b) Performs such services through an individual with the privilege to practice under subsection 1 of section 326.283.
- (3) A firm which is not subject to the requirements of subdivisions (1) or (2) of this subsection may perform other professional services while using the title "CPA" or "CPA firm" in this state without a permit issued under this section only if it:
- (a) Has qualifications described in subsection 4 of this section;
- (b) Performs such services through an individual with the privilege to practice under section 326.283; and
- (c) Can lawfully do so in the state where said individual with privilege to practice has his or her principal place of business.
2. Permits shall be initially issued and renewed for periods of not more than three years or for a specific period as prescribed by board rule following issuance or renewal.
3. The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.
4. An applicant for initial issuance or renewal of a permit to practice [pursuant to] **under** this section shall be required to show that:
- (1) [Notwithstanding any other provision of law to the contrary,] A simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees [pursuant to] **under** section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;
- (2) Any certified public accounting firm may include owners who are not licensees[,] provided that:
- (a) The firm designates a licensee of this state, **or in the case of a firm which must have a permit under this section designates a licensee of another state who meets the requirements of section 326.283**, who is responsible for the proper registration of the firm and identifies that individual to the board;
- (b) All nonlicensee owners are active individual participants in the certified public accounting firm or affiliated entities;
- (c) **All owners are of good moral character; and**
- (d) The firm complies with other requirements as the board may impose by rule;
- (3) Any licensee, initially licensed on or after August 28, 2001, who is responsible for supervising attest services, or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet competency requirements as determined by the board by rule which shall include one year of experience in addition to the experience required [pursuant to] **under** subdivision (6) of subsection 1 of section 326.280 and shall be verified by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee;
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(4) Any licensee who is responsible for supervising review services or signs or authorizes someone to sign review reports shall meet the competency requirements as determined by board by rule which shall include experience in review services.

5. An applicant for initial issuance or renewal of a permit to practice shall register each office of the firm within this state with the board and show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit [pursuant to] **under** this chapter shall use a professional or firm name or designation that is misleading as to:

- (1) The legal form of the firm;
- (2) The persons who are partners, officers, members, managers or shareholders of the firm;

or

- (3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. A firm may use a fictitious name if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm shall not include the name or initials of an individual who is not a present or a past partner, member or shareholder of the firm or its predecessor. The name of the firm shall not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall list in their application all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state. Each holder of or applicant for a permit [pursuant to] **under** this section shall notify the board in writing within thirty days after its occurrence of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state; any change in the number or location of offices within this state; any change in the identity of the persons in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions of this section due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

9. The board shall require by rule, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify. The review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

- (1) Shall include reasonable provision for compliance by a firm showing that it has within the preceding three years undergone a peer review that is a satisfactory equivalent to peer review generally required [pursuant to] **under** this subsection;

- (2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and

- (3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that the board

or any third party other than the oversight body shall not have access to documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.

10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.

11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.

12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section, or the organization performing peer review shall have access to documents furnished or generated in the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings [pursuant to] **under** subdivision (1) of section 610.021, RSMo. The proceedings, records and workpapers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. ISSUANCE OF REPORTS ON FINANCIAL STATEMENTS, LICENSE REQUIRED — USE OF CPA OR CA TITLE, WHEN — VIOLATIONS, PENALTY. — 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer

of a corporation, partnership, association or business trust, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

3. No firm shall provide attest services or assume or use the title certified public accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

(1) The firm holds a valid permit issued [pursuant to] **under section 326.289 or is a firm exempt from the permit requirement under subdivisions (2) and (3) of subsection 1 of section 326.289 and complies with all other applicable provisions of that section;** and

(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.

4. Only persons holding a valid license or permit issued [pursuant to] **under section 326.280 or 326.289, or persons qualifying for the privilege to practice under section 326.283, and firms exempt from the permit requirement under subsection 1 of section 326.289,** shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

5. (1) Nonlicensees shall not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by certified public accountants in reports on financial statements. Nonlicensees may use the following safe harbor language:

(a) For compilations:

"I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

(b) For reviews:

"I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

(2) Only persons or firms holding a valid license or permit issued [pursuant to] **under section 326.280 or 326.289** shall assume or use any title or designation that includes the words accountant or accounting in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing such person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for nonattest purposes.

6. Licensees signing or authorizing someone to sign reports on financial statements when performing attest, review or compilation services shall provide those services in accordance with professional standards as determined by the board by rule.

7. No licensee [or holder of a provisional license] or firm holding a permit [pursuant to] **under** sections 326.280 to 326.289 shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.

8. None of the foregoing provisions of this section shall apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accounting or its equivalent in the country whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

9. No licensee whose license is issued [pursuant to] **under** section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued [pursuant to] **under** section 326.289.

10. Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

11. Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.

12. Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.

13. (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

- (a) An audit or review of a financial statement; or
- (b) A compilation of a financial statement when the licensee expects, or reasonably may expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or
- (c) An examination of prospective financial information. Such prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

14. (1) A licensee shall not:

- (a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensee's firm performs:
 - a. An audit or review of a financial statement; or

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information;

(b) Prepare an original tax return or claim for a tax refund for a contingent fee for any client; or

(c) Prepare an amended tax return or claim for a tax refund for a contingent fee for any client, unless permitted by board rule.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

15. Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.

327.051. MEETINGS, WHEN — PERSONNEL, EMPLOYMENT — COMPENSATION OF BOARD MEMBERS. — 1. The board shall meet at least twice a year at such times and places as are fixed by the board.

2. The board may appoint and employ legal counsel and such board personnel, as defined in subdivision (4) of subsection [15] **10** of section [620.010] **324.001**, RSMo, as it deems necessary within the appropriation therefor.

3. The board shall keep records of its official acts and decisions and certified copies of any such records attested by the executive director with the board's seal affixed shall be received as evidence in all courts to the same extent as the board's original records would be received.

4. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of such member's expenses necessarily incurred in the discharge of such member's official duties.

328.050. COMPENSATION OF BOARD MEMBERS — BOARD FUND TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. All money payable under this chapter shall be collected by the division of professional registration in the department of [economic development] **insurance, financial institutions and professional registration** which shall transmit them to the department of revenue for deposit in the state treasury to the credit of a "Board of Barbers Fund". Warrants shall be drawn upon the treasurer out of this fund only for the payment of the salaries, office and other necessary expenses of the board. A detailed statement of the expenses incurred by the board, approved by the secretary-treasurer of the board, shall be filed with the commissioner of administration before warrants are drawn for their payment.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the

board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

329.025. POWERS OF THE BOARD, MEETINGS — RULEMAKING AUTHORITY. — 1. The board shall have power to:

(1) Prescribe by rule for the examination of applicants for licensure to practice the classified occupations of barbering and cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of barber and cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of barbering and cosmetology as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants;

(4) Set the amount of the fees that this chapter and chapter 328, RSMo, authorize and require, by rules promulgated under section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue that shall not substantially exceed the cost and expense of administering this chapter and chapter 328, RSMo;

(5) Employ and remove board personnel, as set forth in subdivision (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, including an executive secretary or comparable position, inspectors, investigators, legal counsel and secretarial support staff, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(6) Elect one of its members president, one vice president, and one secretary with the limitation that no single profession can hold the positions of president and vice president at the same time;

(7) Promulgate rules necessary to carry out the duties and responsibilities designated by this chapter and chapter 328, RSMo;

(8) Determine the sufficiency of the qualifications of applicants; and

(9) Prescribe by rule the minimum standards and methods of accountability for the schools of barbering and cosmetology licensed under this chapter and chapter 328, RSMo.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed under this chapter and chapter 328, RSMo.

3. A majority of the board, with at least one representative of each profession being present, shall constitute a quorum for the transaction of business.

4. The board shall meet not less than six times annually.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter and chapter 328, RSMo, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

329.028. BOARD OF COSMETOLOGY AND BARBER EXAMINERS FUND CREATED, USE OF MONEYS — TRANSFER OF MONEYS IN BOARD OF BARBERS FUND AND BOARD OF COSMETOLOGY FUND. — 1. There is hereby created in the state treasury a fund to be known as the "Board of Cosmetology and Barber Examiners Fund", which shall consist of all moneys collected by the board. All fees provided for in this chapter and chapter 328, RSMo, shall be payable to the director of the division of professional registration [in the department of economic development], who shall keep a record of the account showing the total payments received and

shall immediately thereafter transmit them to the department of revenue for deposit in the state treasury to the credit of the board of cosmetology and barber examiners fund. All the salaries and expenses for the operation of the board shall be appropriated and paid from such fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule license renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. Upon appointment by the governor and confirmation by the senate of the board, all moneys deposited in the board of barbers fund created in section 328.050, RSMo, and the state board of cosmetology fund created in section 329.240, shall be transferred to the board of cosmetology and barber examiners fund created in subsection 1 of this section. The board of barbers fund and the state board of cosmetology fund shall be abolished when all moneys are transferred to the board of cosmetology and barber examiners fund.

329.210. POWERS OF BOARD, RULEMAKING. — 1. The board shall have power to:

(1) Prescribe by rule for the examinations of applicants for licensure to practice the classified occupation of cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of cosmetology as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering this chapter;

(4) Employ and remove board personnel, as defined in subdivision (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(5) Elect one of its members president, one vice president and one secretary;

(6) Determine the sufficiency of the qualifications of applicants; and

(7) Prescribe by rule the minimum standards and methods of accountability for the schools of cosmetology licensed pursuant to this chapter.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed pursuant to this chapter.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

330.190. BOARD TO ENFORCE LAW AND EMPLOY PERSONNEL. — The board shall investigate all complaints of violations of the provisions of this chapter as provided in [subdivision (6) of subsection 16 of section 620.010] **section 324.002**, RSMo, and shall report any such violations to the proper prosecuting officers or other public officials charged with the enforcement of the provisions of this chapter. The board may employ such board personnel, as

defined in subdivision (4) of subsection [16] **10** of section [620.010] **324.001**, RSMo, as it deems necessary within appropriations therefor.

331.100. ORGANIZATION OF BOARD — DUTY OF OFFICERS — COMPENSATION, POWERS — MEETINGS — LIABILITY FOR OFFICIAL ACTS, EXCEPTION. — 1. The board shall elect a president and secretary at the first regular meeting held after January first of each year. Each member of the board shall receive as compensation for his services the sum of fifty dollars per day while discharging the actual duties of the board, and each member shall receive necessary traveling expenses while actually engaged in the performance of his duties as a member of the board.

2. The board shall have a common seal, and shall adopt rules and regulations for the application and enforcement of this chapter. The president and secretary shall have power to administer oaths. Four members shall constitute a quorum. They shall publish the dates and places for examinations at least thirty days prior to the meeting. The board shall create no expenses exceeding the sums received from time to time as herein provided.

3. The board shall employ such board personnel as may be necessary to carry out the provisions of this chapter. Board personnel shall include an executive secretary or comparable position, inspectors, investigators, attorneys, and secretarial support staff for these positions.

4. Board personnel shall have their duties and compensation prescribed by the board within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions, as determined by the board, under the job and pay plan of the department of [economic development] **insurance, financial institutions and professional registration.**

5. Members of the board shall not be personally liable either jointly or separately for any act or acts committed in the performance of their official duties as board members except gross negligence.

332.041. BOARD, MEETINGS, OFFICERS — RECORDS — COMPENSATION. — 1. The board shall meet at least twice a year at such times and places in the state of Missouri as may be fixed by the board. The board shall elect from its membership a president, a vice president, and a secretary-treasurer, each of whom shall be elected at the times and serve for the terms as are determined by the board, and each of whose duties shall be prescribed by the board.

2. The board shall keep records of its official acts, and certified copies of any such records attested by a designee of the board with the board's seal affixed shall be received as evidence in all courts to the same extent as the board's original records would be received.

3. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. The board may employ and pay legal counsel and such board personnel, as defined in subdivision (4) of subsection [16] **10** of section [620.010] **324.001**, RSMo, as it deems necessary within appropriations therefor.

332.327. DENTAL WELL-BEING COMMITTEE, POWERS AND DUTIES, RECORDS CONFIDENTIAL, EXCEPTION, THE WELL-BEING COMMITTEE — DIVERSION AGREEMENTS, ENTERED INTO, WHEN. — 1. The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any committee

formed pursuant to this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed pursuant to this section. Any member of the well-being committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

2. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, any findings, conclusions, interventions, treatment, rehabilitation or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

3. All records and proceedings of the well-being committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal or administrative proceedings except as provided in subsection 4 of this section.

4. The well-being committee may disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment or rehabilitation needs of the impaired licensee and only to those persons or organization with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) The committee is required to make a report to the board; or

(4) The information is subject to a court order.

5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or more causes stated in subsection 2 of section 332.321, the board may enter into a diversion agreement with a dentist or dental hygienist to refer the licensee to the dental well-being committee under such terms and conditions as are agreed to by the board and licensee for a period not to exceed five years. The board shall enter into no more than two diversion agreements with any individual licensee. If the licensee violates a term or condition of a diversion agreement entered into pursuant to this section, the board may elect to pursue discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section 332.321. While the licensee participates in the well-being committee, the time limitations of section [620.154] **324.043**, RSMo, shall toll pursuant to subsection 7 of section [620.154] **324.043**, RSMo. All records pertaining to diversion agreements are confidential and may only be released pursuant to [subdivision (7) of] subsection [14] **8** of section [620.010] **324.001**, RSMo.

6. The board may disclose information and records to the well-being committee to assist the committee in the identification, intervention, treatment, and rehabilitation of dentists or dental hygienists who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The well-being committee shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records as closed to the public pursuant to chapter [620] **324**, RSMo.

333.011. DEFINITIONS. — As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) "Board", the state board of embalmers and funeral directors created by this chapter;

(2) "Embalmer", any individual licensed to engage in the practice of embalming;

(3) "Funeral director", any individual licensed to engage in the practice of funeral directing;

(4) "Funeral establishment", a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;

(5) "Person" includes a corporation, partnership or other type of business organization;

(6) "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, [or otherwise,] **including the chemical preparation of a dead human body for disposition. Practice of embalming includes all activities leading up to and including arterial and cavity embalming, including but not limited to raising of vessels and suturing of incisions** of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;

(7) "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.

333.221. COMPENSATION OF BOARD MEMBERS — BOARD MAY EMPLOY PERSONNEL.

— 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties.

2. The board may employ such board personnel, as defined in subdivision (4) of subsection [16] **10** of section [620.010] **324.001**, RSMo, as is necessary for the administration of this chapter.

334.123. ORGANIZATION OF BOARD — EMPLOYMENT OF EXECUTIVE DIRECTOR AND EMPLOYEES — MEETINGS — RECORDS AS EVIDENCE — QUORUM. — The board shall elect its own president and secretary, each to serve for a term of one year, and shall maintain an office and employ an executive director and such other board personnel, as defined in section [620.010] **324.001**, RSMo, as the board in its discretion deems necessary. Without limiting the foregoing, the board is specifically authorized to obtain the services of specially trained and qualified persons or organizations to assist in conducting examinations of applicants for licenses and may employ legal counsel. The executive director shall have the degree of bachelor of arts or the equivalent combination of education and experience from which comparable knowledge and abilities can be acquired. The board shall meet annually in Jefferson City and at such other times and places as the members of the board may designate, and shall keep a record of its proceedings and shall cause a register to be kept of all applicants for certificates of licensure. The records and register shall be prima facie evidence of all matters recorded therein. Four members of the board shall constitute a quorum, at least one of whom shall be a graduate of a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education, and at least one of whom shall be a graduate of a professional school approved and accredited as reputable by the American Osteopathic Association.

334.240. INVESTIGATION AND COMMENCEMENT OF PROSECUTIONS. — Upon receiving information that any provision of sections 334.010, 334.190 and 334.250 has been or is being violated, the secretary of the board or other person designated by the board shall investigate, and upon probable cause appearing, the secretary shall, under the direction of the board, file a complaint with the administrative hearing commission or appropriate official or court. All such complaints shall be handled as provided by rule promulgated pursuant to [subdivision (6) of subsection 16 of section 620.010] **section 324.002**, RSMo.

334.400. DEFINITIONS. — As used in sections 334.400 to 334.430, the following terms shall mean:

(1) "Anesthesiologist", a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology;

(2) "Anesthesiologist assistant", a person who meets each of the following conditions:

(a) Has graduated from an anesthesiologist assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency;

(b) Has passed the certifying examination administered by the National Commission on Certification of Anesthesiologist Assistants;

(c) Has active certification by the National Commission on Certification of Anesthesiologist Assistants; and

(d) Provides health care services delegated by a licensed anesthesiologist;

(3) "Anesthesiologist assistant supervision agreement", a written agreement, jointly agreed upon protocols or standing order between a supervising anesthesiologist and an anesthesiologist assistant, which provides for the delegation of health care services from a supervising anesthesiologist to an anesthesiologist assistant and the review of such services;

(4) "Applicant", any individual who seeks to become licensed as an anesthesiologist assistant;

(5) "Continuing education", the offering of instruction or information to license holders for the purpose of maintaining or increasing skills necessary for the safe and competent practice of anesthetic care;

(6) "Department", the department of [economic development] **insurance, financial institutions and professional registration** or a designated agency thereof;

(7) "Immediately available", in the same physical location or facility in which the services are provided;

(8) "Physician", an individual licensed pursuant to this chapter to practice medicine and surgery or osteopathic medicine and surgery;

(9) "Supervision", medical direction by an anesthesiologist of an anesthesiologist assistant as defined in conditions of 42 CFR 415.110 which limits supervision to no more than four anesthesiologist assistants concurrently.

334.500. DEFINITIONS. — As used in sections 334.500 to 334.685, the following terms mean:

(1) "Board", the state board of registration for the healing arts in the state of Missouri;

(2) "Physical therapist assistant", a person who is licensed as a physical therapist assistant by the board or a person who was actively engaged in practice as a physical therapist assistant on August 28, 1993;

(3) "Physical therapist", a person who is licensed to practice physical therapy;

(4) "**Practice of physical therapy**", the examination, treatment and instruction of human beings to assess, prevent, correct, alleviate and limit physical disability, movement dysfunction, bodily malfunction and pain from injury, disease and any other bodily condition, such term includes, but is not limited to, the administration, interpretation and evaluation of physical therapy tests and measurements of bodily functions and structures; the planning, administration, evaluation and modification of treatment and instruction, including the use of physical measures, activities and devices, for preventive and therapeutic purposes; and the provision of consultative, educational, research and other advisory services for the purpose of reducing the incidence and severity of physical disability, movement dysfunction, bodily malfunction and pain does not include the use of surgery or obstetrics or the administration of x-radiation, radioactive substance, diagnostic x-ray, diagnostic laboratory electrocautery, electrosurgery or invasive tests or the prescribing of any drug or medicine or the administration or dispensing of any drug or medicine other than a topical agent administered or dispensed upon the direction of a physician. Physical therapists may perform electromyography and nerve conduction tests but may not interpret the

results of the electromyography or nerve conduction test. Physical therapists shall practice physical therapy within the scope of their education and training as provided in sections 334.500 to 334.620.

334.506. PHYSICAL THERAPISTS MAY PROVIDE CERTAIN SERVICES WITHOUT PRESCRIPTION OR DIRECTION OF AN APPROVED HEALTH CARE PROVIDER, WHEN — LIMITATIONS. —

1. [Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any person with a recurring, self-limited injury within one year of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any patient whose medical condition should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any person whose condition, for which physical therapy services are rendered pursuant to this subsection, has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever shall come first. If the person's condition for which physical therapy services are rendered under this subsection shall be documented to be progressing toward documented treatment goals, a physical

therapist may continue treatment without referral from a physician, chiropractor, dentist or podiatrist, whose license is in good standing. If treatment rendered under this subsection is to continue beyond thirty days, a physical therapist shall notify the patient's current physician, chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation. A physical therapist shall also perform such notification before continuing treatment rendered under this subsection for each successive period of thirty days.] **As used in this section, "approved health care provider" means a person holding a current and active license as a physician and surgeon under this chapter, a chiropractor under chapter 331, RSMo, a dentist under chapter 332, RSMo, a podiatrist under chapter 330, RSMo, a physician assistant under this chapter, or any licensed and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction whose license is in good standing.**

2. A physical therapist shall not initiate treatment for a new injury or illness without a prescription from an approved health care provider.

3. A physical therapist may provide educational resources and training, develop fitness or wellness programs for asymptomatic persons, or provide screening or consultative services within the scope of physical therapy practice without the prescription and direction of an approved health care provider.

4. A physical therapist may examine and treat without the prescription and direction of an approved health care provider any person with a recurring self-limited injury within one year of diagnosis by an approved health care provider or a chronic illness that has been previously diagnosed by an approved health care provider. The physical therapist shall:

(1) Contact the patient's current approved health care provider within seven days of initiating physical therapy services under this subsection;

(2) Not change an existing physical therapy referral available to the physical therapist without approval of the patient's current approved health care provider;

(3) Refer to an approved health care provider any patient whose medical condition at the time of examination or treatment is determined to be beyond the scope of practice of physical therapy;

(4) Refer to an approved health care provider any patient whose condition for which physical therapy services are rendered under this subsection has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever first occurs;

(5) Notify the patient's current approved health care provider prior to the continuation of treatment if treatment rendered under this subsection is to continue beyond thirty days. The physical therapist shall provide such notification for each successive period of thirty days.

[3.] **5.** The provision of physical therapy services of evaluation and screening pursuant to this section shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection [2] **4** of this section, may be delegated by physical therapists to physical therapist assistants only if the patient's current [physician, chiropractor, dentist, or podiatrist] **approved health care provider** has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection [2] **4** of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of [a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing] **an**

approved health care provider. Nothing in this subsection shall prohibit [a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing,] **an approved health care provider** from acting within the scope of their practice as defined by the applicable chapters of RSMo.

[4.] **6.** No person licensed to practice, or applicant for licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

7. A physical therapist shall only delegate physical therapy treatment to a physical therapist assistant or to a person in an entry level of a professional education program approved by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant Education (CAPTE) who satisfy supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education. The entry level person shall be under onsite supervision of a physical therapist.

334.525. INACTIVE LICENSE STATUS PERMITTED, WHEN, PROCEDURE. — 1. Notwithstanding any other provision of law to the contrary, any person licensed as a physical therapist or physical therapist assistant under this chapter may apply to the state board of registration for the healing arts for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by the board by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive or who has discontinued his or her practice because of retirement shall not practice his or her profession within this state. Such person may continue to use the title of his or her profession or the initials of his or her profession after such person's name.

2. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of his or her intention, paying the appropriate fees, and meeting all established requirements of the board as a condition of reinstatement.

334.530. QUALIFICATIONS FOR LICENSE — EXAMINATIONS, SCOPE. — 1. A candidate for license to practice as a physical therapist shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's good moral character and the person's educational qualifications by submitting satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. A candidate who presents satisfactory evidence of the person's graduation from a school of physical therapy approved as reputable by the American Medical Association or, if graduated before 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission on Accreditation for Physical Therapy Education or its successor, is deemed to have complied with the educational qualifications of this subsection.

2. Persons desiring to practice as physical therapists in this state shall appear before the board at such time and place as the board may direct and be examined as to their fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications set forth in subsection 1 of this section. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the [person signing the statement] **applicant**, subject to the penalties of making a false affidavit or declaration.

3. [The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

5.] The examination of qualified candidates for licenses to practice physical therapy shall [include a written examination and shall embrace the subjects taught in reputable programs of physical therapy education, sufficiently strict to test the qualifications of the candidates as practitioners] **test entry-level competence as related to physical therapy theory, examination and evaluation, physical therapy diagnosis, prognosis, treatment, intervention, prevention, and consultation.**

[6.] 4. The examination shall embrace, in relation to the human being, the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy theory and procedures as related to medicine, surgery and psychiatry, and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice physical therapy.

5. The applicant shall pass a test administered by the board on the laws and rules related to the practice of physical therapy in Missouri.

334.540. LICENSE WITHOUT EXAMINATION, WHEN — RECIPROCAL AGREEMENTS AUTHORIZED. — 1. The board shall issue a license to any physical therapist who [is licensed] **possesses an active license** in another jurisdiction and who has had no violations, suspensions or revocations of a license to practice physical therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri at the time the applicant applies for licensure.

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in subsection 1 of this section, shall be required to pay the same fee as the fee required to be paid by applicants who apply to take the examination before the board. Within the limits provided in this section, the board may negotiate reciprocal compacts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. [Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall not issue a license to any applicant who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the

applicant can sit for the licensure examination three additional times] **The applicant shall pass a test administered by the board on the laws and rules related to practice of physical therapy in Missouri.**

334.550. TEMPORARY LICENSE, ISSUANCE, FEES. — 1. An applicant who has not been previously examined in **this state or** another jurisdiction and meets the qualifications of subsection 1 of section 334.530, **or an applicant applying for reinstatement of an inactive license under a supervised active practice**, may pay a temporary license fee and submit an agreement-to-supervise form, which is signed by the applicant's supervising physical therapist, to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. **The supervising physical therapist shall hold an unencumbered license to practice physical therapy in this state and shall provide the board proof of active clinical practice in this state for a minimum of one year prior to supervising a temporary licensee. The supervising physical therapist shall not be an immediate family member of the applicant.** The board shall define **immediate family member** and the scope of such supervision by rules and regulations. **The supervising physical therapist for the first-time examinee applicant shall submit to the board a signed notarized form prescribed by the board attesting that the applicant for temporary license shall begin employment at a location in this state within seven days of issuance of the temporary license. The supervising physical therapist shall notify the board within three days if the temporary licensee's employment ceases. A licensed physical therapist shall not supervise more than one temporary licensee.**

2. The temporary license **for the first-time examinee applicant** shall expire on [either] the date the applicant receives the results of the applicant's initial examination, **the date the applicant withdraws from sitting for the examination, the date the board is notified by the supervising physical therapist that the temporary licensee's employment has ceased,** or within ninety days of its issuance, whichever occurs first.

3. **The temporary license for the reinstatement applicant under the supervised active practice shall expire effective one year from the date of issuance.**

334.560. EXAMINATION FEES, REEXAMINATION. — The board shall charge each person who applies for examination for a license to practice as a physical therapist an examination fee. Should the examination prove unsatisfactory and the board refuse to issue a license thereon, the applicant failing to pass the examination may reapply [and return to any meeting] and be examined upon payment of a reexamination fee[; but no temporary license may be issued to such persons].

334.570. CERTIFICATE OF REGISTRATION — NOTICE TO RENEW — FEES — DISPLAY OF CERTIFICATE, REQUIREMENTS. — 1. Every person licensed under sections 334.500 to 334.620 shall, on or before the registration renewal date, apply to the board for a certificate of registration for the ensuing licensing period. The application shall be made **under oath** on a form furnished to the applicant [and shall state] **by the board. The application shall include, but not be limited to, disclosure of the following:**

- (1)** The applicant's full name [and the address at which the person practices and the address at which the person resides and the date and number of such person's license];
- (2)** **The applicant's office address or addresses and telephone number or numbers;**
- (3)** **The applicant's home address and telephone number;**
- (4)** **The date and number of the applicant's license;**
- (5)** **All final disciplinary actions taken against the applicant by any professional association or society, licensed hospital or medical staff of a hospital, physical therapy facility, state, territory, federal agency or county; and**

(6) Information concerning the applicant's current physical and mental fitness to practice his or her profession. The applicant may be required to successfully complete a test administered by the board on the laws and rules related to the practice of physical therapy. The test process, dates, and passing scores shall be established by the board by rule.

2. A [blank form] **notice** for application for registration shall be [mailed] **made available** to each person licensed in this state [at the person's last known address of practice or residence]. The failure to [mail the form of application or the failure to receive it] **receive the notice** does not, however, relieve any person of the duty to register and pay the fee required by sections 334.500 to 334.620 nor exempt such person from the penalties provided by sections 334.500 to 334.620 for failure to register.

3. If a physical therapist does not renew such license for two consecutive renewal periods, such license shall be deemed void.

4. Each applicant for registration shall accompany the application for registration with a registration fee to be paid to the director of revenue for the licensing period for which registration is sought.

5. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; except that, whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule, the delinquent fee may be waived by the board.

6. Upon application and submission by such person of evidence satisfactory to the board that such person is licensed to practice in this state and upon the payment of fees required to be paid by this chapter, the board shall issue to such person a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his or her office address, the expiration date, and the number of the license to practice.

7. Upon receiving such certificate, every person shall cause the certificate to be readily available or conspicuously displayed at all times in every practice location maintained by such person in the state. If the licensee maintains more than one practice location in this state, the board shall, without additional fee, issue to such licensee duplicate certificates of registration for each practice location so maintained. If any licensee changes practice locations during the period for which any certificate of registration has been issued, the licensee shall, within fifteen days thereafter, notify the board of such change and the board shall issue to the licensee, without additional fee, a new registration certificate showing the new location.

8. Whenever any new license is granted to any physical therapist or physical therapist assistant under the provisions of this chapter, the board shall, upon application therefore, issue to such physical therapist or physical therapist assistant a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

334.601. FEES TO BE SET BY BOARD. — The board shall set the amount of the fees which this chapter authorizes and requires by rule. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

334.602. PATIENT RECORD DOCUMENTATION REQUIREMENTS. — 1. Physical therapists and physical therapist assistants shall provide documentation in order that an adequate and complete patient record can be maintained. All patient records shall be legible and available for review and shall include at a minimum documentation of the following information:

(1) Identification of the patient, including name, birthdate, address, and telephone number;

(2) The date or dates the patient was seen;

(3) The current status of the patient, including the reason for the visit;

(4) Observation of pertinent physical findings;

(5) Assessment and clinical impression of physical therapy diagnosis;

(6) Plan of care and treatment;

(7) Documentation of progress toward goals;

(8) Informed consent;

(9) Discharge summary.

2. Patient records remaining under the care, custody, and control of the licensee shall be maintained by the licensee of the board, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided.

3. Any correction, addition, or change in any patient record shall be clearly marked and identified as such, and the date, time, and name of the person making the correction, addition, or change shall be included, as well as the reason for the correction, addition, or change.

4. The board shall not obtain a patient medical record without written authorization from the patient to obtain the medical record or the issuance of a subpoena for the patient medical record.

334.610. LICENSE TO PRACTICE REQUIRED, EXCEPTIONS — UNAUTHORIZED USE OF TITLES PROHIBITED. — Any person who holds himself or herself out to be a physical therapist or a licensed physical therapist within this state or any person who advertises as a physical therapist or claims that the person can render physical therapy services and who, in fact, does not hold a valid physical therapist license is guilty of a class B misdemeanor and, upon conviction, shall be punished as provided by law. Any person who, in any manner, represents himself or herself as a physical therapist, or who uses in connection with such person's name the words or letters "physical therapist", "physiotherapist", "registered physical therapist", "**doctor of physical therapy**", "P.T.", "Ph.T.", "P.T.T.", "R.P.T.", "**D.P.T.**", "**M.P.T.**", or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist without a valid existing license as a physical therapist issued to such person pursuant to the provisions of sections 334.500 to 334.620, is guilty of a class B misdemeanor. Nothing in sections 334.500 to 334.620 shall prohibit any person licensed in this state under chapter 331, RSMo, from carrying out the practice for which the person is duly licensed, or from advertising the use of physiologic and rehabilitative modalities; nor shall it prohibit any person licensed or registered in this state under section 334.735 or any other law from carrying out the practice for which the person is duly licensed or registered; nor shall it prevent professional and semiprofessional teams, schools, YMCA clubs, athletic clubs and similar organizations from furnishing treatment to their players and members. This section, also, shall not be construed so as to prohibit masseurs and masseuses from engaging in their practice not otherwise prohibited by law and provided they do not represent themselves as physical therapists. This section shall not apply to physicians and surgeons licensed under this chapter or to a person in an entry level of a professional education program approved by the commission for accreditation of physical therapists and physical therapist assistant education (CAPTE) who is satisfying supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education while under on-site supervision of a physical therapist; or to a physical therapist who is practicing in the United States Armed Services, United States Public Health Service, or Veterans Administration under federal regulations for state licensure for health care providers.

334.611. EXAMINATION NOT REQUIRED, WHEN. — Notwithstanding any other provision of law to the contrary, any qualified physical therapist who is legally authorized to practice under the laws of another state may practice as a physical therapist in this state without examination by the board or payment of any fee if such practice consists solely of the provision of gratuitous services provided for a summer camp or teaching or participating in a continuing educational seminar for a period not to exceed fourteen days in any one calendar year. Nothing in sections 334.500 to 334.625 shall be construed to prohibit isolated or occasional gratuitous service to and treatment of the afflicted or to prohibit physical therapists from other nations, states, or territories from performing their duties for their respective teams or organizations during the course of their teams' or organizations' stay in this state.

334.612. COMPLAINTS BY PERSONS INCARCERATED, NO DOCUMENTATION OR DISCIPLINARY ACTION PERMITTED, WHEN — DESTRUCTION OF RECORDS PERMITTED, WHEN. — 1. If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation shall appear on file or disciplinary action shall be taken in regards to the licensee's license unless the provisions of subsection 2 of section 334.613 have been violated. Any case file documentation that does not result in the board filing an action under subsection 2 of section 334.613 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 334.613 have been violated.

2. Upon written request of the physical therapist or physical therapist assistant subject to a complaint prior to August 28, 1999, by an individual incarcerated or under the care and control of the department of corrections that did not result in the board filing an action described in subsection 2 of section 334.613, the board and the division of professional registration shall in a timely fashion:

- (1) Destroy all documentation regarding the complaint;
- (2) If previously notified of the complaint, notify any other licensing board in another state or any national registry regarding the board's actions; and
- (3) Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated, that the board has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their practice.

334.613. REFUSAL TO ISSUE OR RENEW A LICENSE, PROCEDURE — COMPLAINT MAY BE FILED, WHEN, REQUIREMENTS FOR PROCEEDINGS ON — DISCIPLINARY ACTION AUTHORIZED. — 1. The board may refuse to issue or renew a license to practice as a physical therapist or physical therapist assistant for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew a license to practice as a physical therapist or physical therapist assistant, the board may, at its discretion, issue a license which is subject to probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation, or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing

commission. If the board issues a probationary, limited, or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited, or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of a license to practice as a physical therapist or physical therapist assistant who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a physical therapist or physical therapist assistant;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of a physical therapist or physical therapist assistant, including but not limited to the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for sessions of physical therapy which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment or services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience, or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine, or device;

(f) Performing services which have been declared by board rule to be of no physical therapy value;

(g) Final disciplinary action by any professional association, professional society, licensed hospital or medical staff of the hospital, or physical therapy facility in this or any other state or territory, whether agreed to voluntarily or not, and including but not limited to any removal, suspension, limitation, or restriction of the person's professional employment, malpractice, or any other violation of any provision of this chapter;

(h) Administering treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional physical therapy practice;

(i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a physical therapist or physical therapist assistant/patient relationship exists; making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients;

(j) Terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

(k) Failing to furnish details of a patient's physical therapy records to treating physicians, other physical therapists, or hospitals upon proper request; or failing to comply with any other law relating to physical therapy records;

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

(m) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(n) Failure to timely pay license renewal fees specified in this chapter;

(o) Violating a probation agreement with this board or any other licensing agency;

(p) Failing to inform the board of the physical therapist's or physical therapist assistant's current telephone number, residence, and business address;

(q) Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physical therapist or physical therapist assistant. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation, or association which issues or conducts such advertising;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence, or repeated negligence in the performance of the functions or duties of a physical therapist or physical therapist assistant. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule adopted under this chapter;

(7) Impersonation of any person licensed as a physical therapist or physical therapist assistant or allowing any person to use his or her license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation, or other final disciplinary action against a physical therapist or physical therapist assistant for a license or other right to practice as a physical therapist or physical therapist assistant by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including but not limited to the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of physical therapy while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice who is not licensed and currently eligible to practice under this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice physical therapy who is not licensed and currently eligible to practice under this chapter;

(11) Issuance of a license to practice as a physical therapist or physical therapist assistant based upon a material mistake of fact;

(12) Failure to display a valid license pursuant to practice as a physical therapist or physical therapist assistant;

(13) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any document executed in connection with the practice of physical therapy;

(14) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of physical therapy services for all patients, or the qualifications of an individual person or persons to render, or perform physical therapy services;

(15) Using, or permitting the use of, the person's name under the designation of "physical therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(16) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment under chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(17) Failure or refusal to properly guard against contagious, infectious, or communicable diseases or the spread thereof; maintaining an unsanitary facility or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in any physical therapy facility to the board, in writing, within thirty days after the discovery thereof;

(18) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor under chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist under chapter 330, RSMo, or any licensed and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing;

(19) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.685;

(20) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a physician who is authorized by law to do so;

(21) Failing to maintain adequate patient records under 334.602;

(22) Attempting to engage in conduct that subverts or undermines the integrity of the licensing examination or the licensing examination process, including but not limited to utilizing in any manner recalled or memorized licensing examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with any other examinees during the test, or copying or sharing licensing examination questions or portions of questions;

(23) Any candidate for licensure or person licensed to practice as a physical therapist or physical therapist assistant who requests, receives, participates or engages directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or profits by means of a credit or other valuable consideration such as wages, an unearned commission, discount or gratuity with any person who referred a patient, or with any relative or business associate of the referring person;

(24) Being unable to practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients by reasons of incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physical therapist or physical therapist assistant to submit to a reexamination for the purpose of establishing his or her competency to practice as a physical therapist or physical therapist assistant conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physical therapist's or physical therapist assistant's professional conduct, or to submit to a mental or physical examination or combination thereof by a facility or professional approved by the board;

(b) For the purpose of this subdivision, every physical therapist and physical therapist assistant licensed under this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physical therapist, physical therapist assistant or applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physical therapist or physical therapist assistant, by registered mail, addressed to the physical therapist or physical therapist assistant at the physical therapist's or physical therapist assistant's last known address. Failure of a physical therapist or physical therapist assistant to submit to the examination when directed shall constitute an admission of the allegations against the physical therapist or physical therapist assistant, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physical therapist's or physical therapist assistant's control. A physical therapist or physical therapist assistant whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physical therapist or physical therapist assistant can resume the competent practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients;

(e) In any proceeding under this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physical therapist or physical therapist assistant in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 3 of this section.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Warn, censure or place the physical therapist or physical therapist assistant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years;

(2) Suspend the physical therapist's or physical therapist assistant's license for a period not to exceed three years;

- (3) Restrict or limit the physical therapist's or physical therapist assistant's license for an indefinite period of time;
 - (4) Revoke the physical therapist's or physical therapist assistant's license;
 - (5) Administer a public or private reprimand;
 - (6) Deny the physical therapist's or physical therapist assistant's application for a license;
 - (7) Permanently withhold issuance of a license;
 - (8) Require the physical therapist or physical therapist assistant to submit to the care, counseling or treatment of physicians designated by the board at the expense of the physical therapist or physical therapist assistant to be examined;
 - (9) Require the physical therapist or physical therapist assistant to attend such continuing educational courses and pass such examinations as the board may direct.
4. In any order of revocation, the board may provide that the physical therapist or physical therapist assistant shall not apply for reinstatement of the physical therapist's or physical therapist assistant's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.
5. Before restoring to good standing a license issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.
6. In any investigation, hearing or other proceeding to determine a physical therapist's, physical therapist assistant's or applicant's fitness to practice, any record relating to any patient of the physical therapist, physical therapist assistant, or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such physical therapist, physical therapist assistant, applicant, record custodian, or patient might otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant, or record custodian may withhold records or testimony bearing upon a physical therapist's, physical therapist assistant's, or applicant's fitness to practice on the ground of privilege between such physical therapist, physical therapist assistant, applicant, or record custodian and a patient.

334.614. LICENSED PHYSICAL THERAPISTS, BOARD TO PUBLISH LIST OF AND MAKE A REPORT ON DISCIPLINARY ACTIONS AVAILABLE TO THE PUBLIC. — 1. Notwithstanding any other provisions of section 620.010, RSMo, to the contrary, the board shall at least quarterly publish a list of the names and addresses of all physical therapists and physical therapist assistants who hold licenses under the provisions of this chapter, and shall publish a list of all physical therapists and physical therapist assistants whose licenses have been suspended, revoked, surrendered, restricted, denied, or withheld.

2. Notwithstanding any other provisions of section 620.010, RSMo, to the contrary, in addition, the board shall prepare and make available to the public a report upon the disciplinary matters submitted to them where the board recommends disciplinary action, except in those instances when physical therapists and physical therapist assistants possessing licenses voluntarily enter treatment and monitoring programs for purposes of rehabilitation and, in such instances, only such specific action shall not be reported with any other actions taken prior to, as part of, or following voluntary entrance into such treatment programs. The report shall set forth findings of fact and any final disciplinary actions of the board. If the board does not recommend disciplinary action, a report stating that no action is recommended shall be prepared and forwarded to the complaining party.

334.615. CLEAR AND PRESENT DANGER, INFORMATION TO BE BROUGHT TO BOARD — SANCTIONING AUTHORITY — HEARING REQUIRED, WHEN, PROCEDURE. — 1. Upon receipt of information that the holder of any license as a physical therapist or physical therapist assistant issued under this chapter may present a clear and present danger to the public health and safety, the executive director shall direct that the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending or restricting the holder of a license as a physical therapist or physical therapist assistant if it believes:

(1) The licensee's acts, conduct, or condition may have violated subsection 2 of section 334.613; and

(2) A licensee is practicing, attempting, or intending to practice in Missouri; and

(3) (a) A licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice; or

(b) Another state, territory, federal agency, or country has issued an order suspending or restricting the physical therapist's or physical therapist assistant's right to practice his or her profession; or

(c) The licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 334.613; and

(4) The acts, conduct, or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the board;

(b) May be issued without notice and hearing to the licensee;

(c) Shall include the facts which lead the board to conclude that the acts, conduct, or condition of the licensee constitute a clear and present danger to the public health and safety.

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed under this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3 of this section.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of whether the board's order of suspension or restriction should be terminated or

modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that adopts, terminates, or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the administrative hearing commission under section 621.110, RSMo, and subsection 3 of section 334.100.

8. In cases where the board initiates summary suspension or restriction proceedings against a physical therapist or physical therapist assistant licensed under this chapter, and such petition is subsequently denied by the administrative hearing commission, in addition to any award made under sections 536.085 and 536.087, RSMo, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610, RSMo, or chapter 621, RSMo, to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.

334.616. AUTOMATIC REVOCATION OF LICENSURE, WHEN. — 1. A license issued under this chapter by the Missouri state board of registration for the healing arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit, or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.

334.617. INJUNCTION OR RESTRAINING ORDER AUTHORIZED, WHEN. — 1. Upon application by the board and the necessary burden having been met, a court of general

jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license is required by chapters 334.500 to 334.687 upon a showing that such acts or practices were performed or offered to be performed without a license; or

(2) Engaging in any practice or business authorized by a license issued under chapters 334.500 to 334.687 upon a showing that the holder presents a substantial probability of serious danger to the health, safety, or welfare of any resident of the state or client or patient of the licensee.

2. Any such action shall be commenced in the county in which such conduct occurred or in the county in which the defendant resides or Cole County.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by chapters 334.500 to 334.687 and may be brought concurrently with other actions to enforce chapters 334.500 to 334.687.

334.618. INVESTIGATION AND FILING OF COMPLAINTS FOR VIOLATIONS. — Upon receiving information that any provision of sections 334.500 to 334.687 has been or is being violated, the executive director of the board or other person designated by the board shall investigate, and upon probable cause appearing, the executive director shall, under the direction of the board, file a complaint with the administrative hearing commission or appropriate official or court. All such complaints shall be handled as provided by rule promulgated under subdivision (6) of subsection 16 of section 620.010, RSMo.

334.650. PHYSICAL THERAPIST ASSISTANT, LICENSE REQUIRED — SUPERVISION BY LICENSED PHYSICAL THERAPIST. — 1. After January 1, 1997, no person shall hold himself or herself out as being a physical therapist assistant in this state unless the person is licensed as provided in sections 334.650 to 334.685.

2. A licensed physical therapist shall direct and supervise a physical therapist assistant [at all times. The licensed physical therapist shall have the responsibility of supervising the physical therapy treatment program]. **The physical therapist shall retain ultimate authority and responsibility for the physical therapy treatment. The licensed physical therapist shall have the responsibility of supervising the physical therapy treatment program.** No physical therapist may establish a treating office in which the physical therapist assistant is the primary care provider. No licensed physical therapist shall have under their direct supervision more than four **full-time equivalent** physical therapist assistants.

334.655. PHYSICAL THERAPIST ASSISTANT, REQUIRED AGE, EVIDENCE OF CHARACTER AND EDUCATION, EDUCATIONAL REQUIREMENTS — BOARD EXAMINATION, APPLICATIONS — WRITTEN EXAMINATION — EXAMINATION TOPICS — EXAMINATION NOT REQUIRED, WHEN. — 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

(1) A certificate of graduation from an accredited high school or its equivalent; and

(2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education.

2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as to the person's fitness to engage in such practice. Applications for examination shall be [in writing,] on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its

representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace [a written] **an** examination [and] which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners.

4. [The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

5. The board may waive the provisions of subsection 4 if the applicant has met one of the following provisions: the applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

6.] The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

5. The applicant shall pass a test administered by the board on the laws and rules related to the practice as a physical therapist assistant in this state.

[7.] 6. The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.

[8.] 7. A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.

334.660. RECIPROCITY WITH OTHER STATES. — 1. The board shall license without examination legally qualified persons who [hold] **possess active** certificates of licensure, registration or certification in any state or territory of the United States or the District of Columbia, who have had no violations, suspensions or revocations of such license, registration or certification, if such persons have passed [a written] **an** examination to practice as a physical therapist assistant that was substantially equal to the examination requirements of this state and in all other aspects, including education, the requirements for such certificates of licensure, registration or certification were, at the date of issuance, substantially equal to the requirements for licensure in this state.

2. [The board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.

3. The board may waive the provisions of subsection 1 if the applicant has met one of the following provisions: the applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state

or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

4.] Every applicant for a license pursuant to this section, upon making application and providing documentation of the necessary qualifications as provided in this section, shall pay the same fee required of applicants to take the examination before the board. Within the limits of this section, the board may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. The applicant shall successfully pass a test administered by the board on the laws and rules related to practice as a physical therapist assistant in this state.

334.665. TEMPORARY LICENSE — FEE AUTHORIZED — EXPIRES, WHEN. — 1. An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.655 **or an applicant applying for reinstatement of an inactive license under a supervised active practice** may pay a temporary license fee and submit an agreement-to-supervise form which is signed by the applicant's supervising physical therapist to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only practice under the supervision of a licensed physical therapist. **The supervising physical therapist shall hold an unencumbered license to practice physical therapy in the state of Missouri and shall provide the board proof of active clinical practice in the state of Missouri for a minimum of one year prior to supervising the temporary licensee. The supervising physical therapist shall not be an immediate family member of the applicant. The board shall define immediate family member and the scope of such supervision by rule. The supervising physical therapist for the first-time examinee applicant shall submit to the board a signed notarized form prescribed by the board attesting that the applicant for temporary license shall begin employment at a location in this state within seven days of issuance of the temporary license. The supervising physical therapist shall notify the board within three days if the temporary licensee's employment ceases. A licensed physical therapist shall supervise no more than one temporary licensee. [The board shall define the scope of such supervision by rules and regulations.]**

2. The temporary license **for the first-time examinee applicant** shall expire on [either] the date the applicant receives the results of the applicant's initial examination, **the date the applicant withdraws from sitting for the examination, the date the board is notified by the supervising physical therapist that the temporary licensee's employment has ceased,** or within ninety days of its issuance, whichever occurs first.

3. The temporary license for the reinstatement applicant under the supervised active practice shall expire effective one year from the date of issuance.

334.670. EXAMINATION FEE. — The board shall charge a person, who applies for examination for a license to practice as a physical therapist assistant, an examination fee. If the person does not score a passing grade on the examination, the board may refuse to issue a license. Any applicant who fails to pass the examination may reapply and be reexamined upon payment of a reexamination fee. [No temporary license may be issued to any person who has previously failed the examination in Missouri or any other state or jurisdiction.]

334.675. RENEWAL OF LICENSE, APPLICATION, FEE — DISPLAY OF LICENSE, REQUIREMENTS. — 1. Every person licensed pursuant to sections 334.650 to 334.685 shall, on or before the licensing renewal date, apply to the board for a certificate of licensure for the next licensing period. The application for renewal shall be made **under oath** on a form furnished to the applicant [and shall state] **by the board. The application shall include, but not be limited to, disclosure of the following:**

- (1) The applicant's full name [and the address at which the applicant practices and the address at which the applicant resides and];
- (2) **The applicant's office address or addresses and telephone number or numbers;**
- (3) **The applicant's home address and telephone number;**
- (4) The date and number of the applicant's license;
- (5) **All final disciplinary actions taken against the applicant by any professional association or society, licensed hospital or medical staff of the hospital, physical therapy facility, state, territory, federal agency or country; and**
- (6) **Information concerning the applicant's current physical and mental fitness to practice the applicant's profession.**

The applicant may be required to successfully complete a test administered by the board on the laws and rules related to the practice of physical therapy in this state. The test process, dates, and passing scores shall be established by the board by rule.

2. A [blank application form] **notice** shall be [mailed] **made available** to each person licensed in this state [pursuant to sections 334.650 to 334.685 at the person's last known address of practice or residence. The failure to mail the application for or the failure to receive the application form]. **The failure to receive the notice** does not relieve any person of the duty to renew the person's license and pay the renewal fee as required by sections 334.650 to 334.685 nor shall it exempt the person from the penalties provided by sections 334.650 to 334.685 for failure to renew a license.

3. If a physical therapist assistant does not renew such license for two consecutive renewal periods, such license shall be deemed voided.

4. Each applicant for registration shall accompany the application for registration with a registration fee to be paid to the director of revenue for the licensing period for which registration is sought.

5. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; except that, if in the opinion of the board the applicant's failure to register is caused by extenuating circumstances, including illness of the applicant as defined by rule, the delinquent fee may be waived by the board.

6. Upon due application therefore and upon submission by such person of evidence satisfactory to the board that he or she is licensed to practice in this state and upon the payment of fees required to be paid by this chapter, the board shall issue to such person a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his or her office address, the expiration date, and the number of the license to practice.

7. Upon receiving such certificate, every person shall cause it to be readily available or conspicuously displayed at all times in every practice location maintained by such licensee in the state. If the licensee maintains more than one practice location in this state, the board shall without additional fee issue to them duplicate certificates of registration for each practice location so maintained. If any licensee changes practice locations during the period for which any certificate of registration has been issued, such licensee shall, within fifteen days thereafter, notify the board of such change and the board shall issue to the licensee, without additional fee, a new registration certificate showing the new location.

8. Whenever any new license is granted to any physical therapist or physical therapist assistant under the provisions of this chapter, the board shall, upon application therefore, issue to such physical therapist or physical therapist assistant a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

334.686. TITLES AUTHORIZED. — Any person who holds himself or herself out to be a physical therapist assistant or a licensed physical therapist assistant within this state or any person who advertises as a physical therapist assistant and who, in fact, does not hold a valid physical therapist assistant license is guilty of a class B misdemeanor and, upon conviction, shall be punished as provided by law. Any person who, in any manner, represents himself or herself as a physical therapist assistant, or who uses in connection with such person's name the words or letters, "physical therapist assistant", the letters "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any other letters, words, abbreviations or insignia, indicating or implying that the person is a physical therapist assistant without a valid existing license as a physical therapist assistant issued to such person under the provisions of sections 334.500 to 334.620, is guilty of a class B misdemeanor. This section shall not apply to physicians and surgeons licensed under this chapter or to a person in an entry level of a professional education program approved by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant Education (CAPTE) who is satisfying supervised clinical education requirements related to the person's physical therapist or physical therapist assistant education while under onsite supervision of a physical therapist; or to a physical therapist who is practicing in the United States Armed Forces, United States Public Health Service, or Veterans Administration under federal regulations for state licensure for health care providers.

334.687. RULEMAKING AUTHORITY. — 1. For purposes of this section, the licensing of physical therapists and physical therapist assistants shall take place within processes established by the state board of registration for the healing arts through rules. The board of healing arts is authorized to adopt rules establishing licensing and renewal procedures, supervision of physical therapist assistants, and former licensees who wish to return to the practice of physical therapy, fees, and addressing such other matters as are necessary to protect the public and discipline the profession.

334.702. DEFINITIONS. — As used in sections 334.700 to 334.725, unless the context clearly requires otherwise, the following terms mean:

- (1) "Athlete", a person who participates in a sanctioned amateur or professional sport or recreational sport activity;
- (2) "Athletic trainer", a person who meets the qualifications of section 334.708 and who, upon the direction of the team physician and/or consulting physician, practices prevention, emergency care, first aid, treatment, or physical rehabilitation of injuries incurred by athletes in the manner, means, and methods deemed necessary to effect care or rehabilitation, or both;
- (3) "Board", the Missouri board for the healing arts;
- (4) "Committee", the athletic trainers advisory committee;
- (5) "Division", the division of professional registration [of the department of economic development];
- (6) "Student athletic trainer", a person who assists in the duties usually performed by a licensed athletic trainer and who works under the direct supervision of a licensed athletic trainer.

334.735. DEFINITIONS — RULES — SCOPE OF PRACTICE — PROHIBITED ACTIVITIES — BOARD OF HEALING ARTS TO ADMINISTER LICENSING PROGRAM — SUPERVISION AGREEMENTS — DUTIES AND LIABILITY OF PHYSICIANS. — 1. As used in sections 334.735 to 334.749, the following terms mean:

- (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
 - (2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;
 - (3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;
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(4) "Department", the department of [economic development] **insurance, financial institutions and professional registration** or a designated agency thereof;

(5) "License", a document issued to an applicant by the [department] **board** acknowledging that the applicant is entitled to practice as a physician assistant;

(6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;

(7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;

(8) "Supervision", control exercised over a physician assistant working within the same facility as the supervising physician sixty-six percent of the time a physician assistant provides patient care, except a physician assistant may make follow-up patient examinations in hospitals, nursing homes, patient homes, and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician, except as provided by subsection 2 of this section. **For the purposes of this section, the percentage of time a physician assistant provides patient care with the supervising physician on-site shall be measured each calendar quarter.** The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care. The board shall promulgate rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.

2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:

(1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;

(2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver; and

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area;

(5) Nothing in this section shall be construed to require a physician-physician assistant team to increase their on-site requirement allowed in their initial waiver in order to qualify for renewal of such waiver.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

(1) Taking patient histories;

(2) Performing physical examinations of a patient;

(3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall not prescribe controlled substances;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and

intervention, except as otherwise provided in this section, and in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

6. For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.

7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

8. When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

9. At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

334.746. STAFF FOR HEALTH CARE PROVIDER — CERTIFICATION. — All staff for the health care providers certification and registration program shall be provided by the director of the department of [economic development] **insurance, financial institutions and professional registration** through the director of the division of professional registration.

334.800. TITLE OF ACT — DEFINITIONS. — 1. Sections 334.800 to 334.930 shall be known and may be cited as the "Respiratory Care Practice Act".

2. For the purposes of sections 334.800 to 334.930, the following terms mean:

- (1) "Board", the Missouri board for respiratory care, established in section 334.830;
- (2) "Certified respiratory therapist" or "CRT", a person meeting entry-level qualifying educational requirements, having passed the certification examination and having been certified by the certifying entity;
- (3) "Certifying entity", the cognitive competency testing organization as authorized by the board;
- (4) "Continuing education", the offering of instruction or information to license holders for the purpose of maintaining or increasing skills necessary for the safe and competent practice of respiratory care;
- (5) "CRT" and "RRT", abbreviations for certified respiratory therapist and registered respiratory therapist and are registered trademarks of a certifying entity of the National Board for Respiratory Care but does not include certified clinical perfusionists;
- (6) "Direct clinical supervision", availability of a licensed respiratory care practitioner for purposes of immediate communication and consultation with, and the assistance of, the permit holder;
- (7) "Division", the division of professional registration [of the department of economic development];
- (8) "Practice of respiratory care", as provided in section 334.810;
- (9) "Protocol", a written agreement of medical care plan delegating professional responsibilities to a person who is qualified by training, competency, experience or licensure to perform such responsibilities. A protocol is a defined response to a specific clinical situation and shall be written, signed and dated by a physician prior to its implementation;
- (10) "Registered respiratory therapist" or "RRT", a person meeting advanced-level qualifying professional educational requirements, having passed the registry examination and having been registered by the certifying entity;
- (11) "Respiratory care", the allied health profession whose practitioners function under the supervision of a physician or in accordance with clinical protocols accepted by the physician in the administration of pharmacologic, diagnostic and therapeutic agents related to respiratory care necessary to implement or modify diagnostic regimens, treatment, disease prevention or pulmonary rehabilitation of patients with deficiencies and abnormalities associated with the cardiopulmonary system;
- (12) "Respiratory care practitioner", a person:
 - (a) Duly licensed by the board;
 - (b) Employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care as defined in this section;
 - (c) Who is able to function in situations of unsupervised patient contact requiring individual judgment; and
 - (d) Who is capable of serving as a resource to the physician in relation to the technical aspects of respiratory care as to safe and effective methods for administering respiratory care modalities;
- (13) "Special training":
 - (a) Is a deliberate systematic educational activity in the affective, psychomotor and cognitive domains;
 - (b) Is intended to develop new proficiencies with an application in mind;
 - (c) Is presented with an attention to needs, objectives, activities and a defined means of evaluation.

335.036. DUTIES OF BOARD — FEES SET, HOW — FUND, SOURCE, USE, FUNDS TRANSFERRED FROM, WHEN — RULEMAKING. — 1. The board shall:

- (1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and the board may appoint, employ and fix the compensation of a legal counsel and such board
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personnel as defined in subdivision (4) of subsection [16] **10** of section [620.010] **324.001**, RSMo, as are necessary to administer the provisions of sections 335.011 to 335.096;

(2) Adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of sections 335.011 to 335.096;

(3) Prescribe minimum standards for educational programs preparing persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

(4) Provide for surveys of such programs every five years and in addition at such times as it may deem necessary;

(5) Designate as "approved" such programs as meet the requirements of sections 335.011 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall annually publish a list of such programs;

(6) Deny or withdraw approval from educational programs for failure to meet prescribed minimum standards;

(7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

(8) Cause the prosecution of all persons violating provisions of sections 335.011 to 335.096, and may incur such necessary expenses therefor;

(9) Keep a record of all the proceedings; and make an annual report to the governor and to the director of the department of [economic development] **insurance, financial institutions and professional registration**;

(10) Establish an impaired nurse program.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. All fees received by the board pursuant to the provisions of sections 335.011 to 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of nursing fund. All administrative costs and expenses of the board shall be paid from appropriations made for those purposes.

4. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

336.160. BOARD MAY PROMULGATE RULES AND EMPLOY PERSONNEL — FEES, AMOUNT, HOW SET. — 1. The board may adopt reasonable rules and regulations within the scope and terms of this chapter for the proper administration and enforcement thereof. It may employ such board personnel, as defined in subdivision (4) of subsection [16] **10** of section [620.010] **324.001**, RSMo, as it deems necessary within appropriations therefor.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

337.010. DEFINITIONS. — As used in sections 337.010 to 337.090 the following terms mean:

- (1) "Committee", the state committee of psychologists;
- (2) "Department", the department of [economic development] **insurance, financial institutions and professional registration**;
- (3) "Division", the division of professional registration [within the department of economic development];
- (4) "Licensed psychologist", any person who offers to render psychological services to individuals, groups, organizations, institutions, corporations, schools, government agencies or the general public for a fee, monetary or otherwise, implying that such person is trained, experienced and licensed to practice psychology and who holds a current and valid, whether temporary, provisional or permanent, license in this state to practice psychology;
- (5) "Provisional licensed psychologist", any person who is a graduate of a recognized educational institution with a doctoral degree in psychology as defined in section 337.025, and who otherwise meets all requirements to become a licensed psychologist except for passage of the licensing exams, oral examination and completion of the required period of postdegree supervised experience as specified in subsection 2 of section 337.025;
- (6) "Recognized educational institution":
 - (a) A school, college, university or other institution of higher learning in the United States, which, at the time the applicant was enrolled and graduated, had a graduate program in psychology and was accredited by one of the regional accrediting associations approved by the Council on Postsecondary Accreditation; or
 - (b) A school, college, university or other institution of higher learning outside the United States, which, at the time the applicant was enrolled and graduated, had a graduate program in psychology and maintained a standard of training substantially equivalent to the standards of training of those programs accredited by one of the regional accrediting associations approved by the Council of Postsecondary Accreditation;
- (7) "Temporary license", a license which is issued to a person licensed as a psychologist in another jurisdiction, who has applied for licensure in this state either by reciprocity or endorsement of the score from the Examination for Professional Practice in Psychology, and who is awaiting either a final determination by the committee relative to such person's eligibility for licensure or who is awaiting the results of the jurisprudence examination or oral examination.

337.090. LICENSE OR DIRECTORY NOT TO INCLUDE DEGREE ON WHICH LICENSE WAS ISSUED. — The committee and division in issuing licenses and in publishing the directory as provided in section [620.145] **324.032**, RSMo, shall not include or list the degree upon which the license or certificate was issued. Any person licensed on the basis of a master's degree who has then earned a doctoral degree may use the title "doctor" or hold himself out in his practice as a psychologist as having a doctoral degree so long as it is from an accredited institution of higher education and so long as the degree is relevant to the practice of psychology.

337.500. DEFINITIONS. — As used in sections 337.500 to 337.540, unless the context clearly requires otherwise, the following words and phrases mean:

- (1) "Committee or board", the committee for professional counselors;
 - (2) "Department", the Missouri department of [economic development] **insurance, financial institutions and professional registration**;
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(3) "Director", the director of the division of professional registration [in the department of economic development];

(4) "Division", the division of professional registration;

(5) "Licensed professional counselor", any person who offers to render professional counseling services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed in counseling, and who holds a current, valid license to practice counseling;

(6) "Practice of professional counseling", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies, or the general public any counseling service involving the application of counseling procedures, and the principles and methods thereof, to assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social, educational, vocational, developmental, or rehabilitative adjustments;

(7) "Professional counseling", includes, but is not limited to:

(a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures based on principles for assessing, understanding, or influencing behavior (such as principles of learning, conditioning, perception, motivation, thinking, emotions, or social systems);

(b) Appraisal or assessment, which means selecting, administering, scoring, or interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes, abilities, achievement, interests, and personal characteristics;

(c) The use of referral or placement techniques or both which serve to further the goals of counseling;

(d) Therapeutic vocational or personal or both rehabilitation in relation to coping with or adapting to physical disability, emotional disability, or intellectual disability or any combination of the three;

(e) Designing, conducting, and interpreting research;

(f) The use of group methods or techniques to promote the goals of counseling;

(g) The use of informational and community resources for career, personal, or social development;

(h) Consultation on any item in paragraphs (a) through (g) above; and

(i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of professional counselors in the policies or contracts of any insurance company, health services corporation or other third-party payer;

(8) "Provisional licensed professional counselor", any person who is a graduate of an acceptable educational institution, as defined by division rules, with at least a master's degree with a major in counseling, or its equivalent, and meets all requirements of a licensed professional counselor, other than the supervised counseling experience prescribed by subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the practice of professional counseling.

337.600. DEFINITIONS. — As used in sections 337.600 to 337.689, the following terms mean:

(1) "Advanced macro social worker", the applications of social work theory, knowledge, methods, principles, values, and ethics; and the professional use of self to community and organizational systems, systemic and macrocosm issues, and other indirect nonclinical services; specialized knowledge and advanced practice skills in case management, information and referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research, advocacy, social planning and policy development, community organization, and the development, implementation and administration of policies, programs, and activities. A licensed

advanced macro social worker may not treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(2) "Clinical social work", the application of social work theory, knowledge, values, methods, principles, and techniques of case work, group work, client-centered advocacy, administration, consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration of mental and emotional conditions;

(3) "Committee", the state committee for social workers established in section 337.622;

(4) "Department", the Missouri department of [economic development] **insurance, financial institutions and professional registration;**

(5) "Director", the director of the division of professional registration;

(6) "Division", the division of professional registration;

(7) "Independent practice", any practice of social workers outside of an organized setting such as a social, medical, or governmental agency in which a social worker assumes responsibility and accountability for services required;

(8) "Licensed advanced macro social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as an advanced macro social worker, and who holds a current valid license to practice as an advanced macro social worker;

(9) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

(10) "Licensed clinical social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical social worker;

(11) "Licensed master social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a master social worker, and who holds a current valid license to practice as a master social worker. A licensed master social worker may not treat mental or emotional disorders, provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(12) "Master social work", the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, communities, institutions, government agencies, or corporations. The practice includes the applications of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, mediation, information and referral, counseling, client education, supervision, consultation, education, research, advocacy, community organization and development, planning, evaluation, implementation and administration of policies, programs, and activities. Under supervision as provided in this section, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers;

(13) "Practice of advanced macro social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions,

corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of advanced practice macro social work;

(14) "Practice of baccalaureate social work", rendering, offering to render, or supervising those who render to individuals, families, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

(15) "Practice of clinical social work", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

(16) "Practice of master social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of master social work;

(17) "Provisional licensed clinical social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed clinical social worker, other than the supervised clinical social work experience prescribed by subdivision (2) of subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice clinical social work, as defined by rule;

(18) "Qualified advanced macro supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(19) "Qualified baccalaureate supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified advanced macro supervisor, or a licensed baccalaureate social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social workers; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(20) "Qualified clinical supervisor", any licensed clinical social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant uninterrupted since August 28, 2004, or a minimum of five years;

(b) Successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(21) "Social worker", any individual that has:

(a) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(b) Received a doctorate or Ph.D. in social work; or

(c) A current social worker license as set forth in sections 337.600 to 337.689.

337.700. DEFINITIONS. — As used in sections 337.700 to 337.739, the following terms mean:

(1) "Committee", the state committee for family and marital therapists;

(2) "Department", the Missouri department of [economic development] **insurance, financial institutions and professional registration;**

(3) "Director", the director of the division of professional registration [in the department of economic development];

(4) "Division", the division of professional registration;

(5) "Fund", the marital and family therapists' fund created in section 337.712;

(6) "Licensed marital and family therapist", a person to whom a license has been issued pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not suspended or revoked;

(7) "Marital and family therapy", the use of scientific and applied marriage and family theories, methods and procedures for the purpose of describing, diagnosing, evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the diagnosis, evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions;

(8) "Practice of marital and family therapy", the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

338.130. COMPENSATION OF BOARD MEMBERS, PERSONNEL. — 1. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties.

2. The board may employ such board personnel, as defined in subdivision (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, as it deems necessary to carry out the provisions of this chapter. The compensation and expenses of such personnel and all expenses incurred by the board in carrying into execution the provisions of this chapter, shall be paid out of the board of pharmacy fund upon a warrant on the state treasurer.

339.010. DEFINITIONS — APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, association, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

(1) Sells, exchanges, purchases, rents, or leases real estate;

(2) Offers to sell, exchange, purchase, rent or lease real estate;

(3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts [as an employee of, or] on behalf of[,] the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

5. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public; it, **and** shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, Internet advertising, web sites, display or group ads in telephone directories, and billboards.

6. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, association, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof[, provided such owner, lessor, or lessee is not engaged in the real estate business];

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, Internet site, or other medium.

339.120. COMMISSION, CREATED — MEMBERS, QUALIFICATIONS, TERMS, COMPENSATION — POWERS AND DUTIES — RULEMAKING AUTHORITY, PROCEDURE. — 1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years,

and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860. Each member of the commission shall receive as compensation an amount set by the commission not to exceed seventy-five dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection [15] **10** of section [620.010] **324.001**, RSMo, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 339.010 to 339.180 and sections 339.710 to 339.860 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

339.150. NO FEE TO BE PAID TO UNLICENSED PERSON — EXCEPTION WHEN BROKER REFUSES TO PAY FOR SERVICES RENDERED KNOWING THE PERSON WAS UNLICENSED, EFFECT. — 1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860, unless such a person is:

(1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020[.]; or

(2) **For a transaction involving commercial real estate as defined in section 339.710, a person regularly engaged in the real estate brokerage business outside the state of Missouri who has, in such forms as the commission may adopt by rule:**

(a) Executed a brokerage agreement with the Missouri real estate broker;

(b) Consented to the jurisdiction of Missouri and the commission;

(c) Consented to disciplinary procedures under section 339.100; and

(d) **Appointed the commission as his or her agent for service of process regarding any administrative or legal actions relating to the conduct in Missouri; or**

(3) **For any other transaction,** a person regularly engaged in the real estate brokerage business outside of the state of Missouri. Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

339.507. REAL ESTATE APPRAISERS COMMISSION AND CHAIRPERSON, APPOINTMENT — TERMS — VACANCIES, MEETINGS — QUORUM — PER DIEM — EXPENSES. — 1. There is hereby created within the division of professional registration [of the department of economic development] the "Missouri Real Estate Appraisers Commission", which shall consist of seven members appointed by the governor with the advice and consent of the senate, six of whom shall be appraiser members, and one shall be a public member. Each member shall be a resident of this state and a registered voter for a period of one year prior to the person's appointment. The president of the Missouri Appraiser Advisory Council in office at the time shall, at least ninety days prior to the expiration of the term of the commission member, other than the public member, or as soon as feasible after the vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five appraisers qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The public member shall have never been engaged in the businesses of real estate appraisal, real estate sales or making loans secured by real estate.

2. The real estate appraiser members appointed by the governor shall be Missouri residents who have real estate appraisal experience in the state of Missouri for not less than five years immediately preceding their appointment. Appraiser members of the commission shall be

appointed from the registry of state-certified real estate appraisers and state-licensed real estate appraisers.

3. All members shall be appointed for three-year terms. All members shall serve until their successors have been appointed and qualified. Vacancies occurring in the membership of the commission for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the commission shall continue to hold office until the appointment and qualification of their successors. No more than four members of the commission shall be members of the same political party. No person shall be appointed for more than two consecutive terms. The governor may remove a member for cause.

4. The commission shall meet at least once each calendar quarter to conduct its business. A quorum of the commission shall consist of four members.

5. Each member of the commission shall be entitled to a per diem allowance of fifty dollars for each meeting of the commission at which the member is present and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. Each member of the commission shall be entitled to reimbursement of travel expenses necessarily incurred in attending meetings of the commission.

340.212. RECORD OF BOARD PROCEEDINGS — LIST OF PERSONS LICENSED, SUSPENDED, REVOKED, DISCIPLINED, FORWARDING OF LISTS — REPORTS OF FINAL DISCIPLINARY ACTIONS — IMMUNITY. — 1. The board shall cause the executive director to prepare and maintain a written record of all board proceedings whether or not such proceedings are formal, informal, open or closed to the public. All records so prepared and maintained and other documents or reports incorporated therein shall be open to the public except where specifically required or allowed to be closed to the public pursuant to chapter 610, RSMo.

2. Other provisions of section [620.010] **324.001**, RSMo, to the contrary notwithstanding, the board shall publish a list of the names and addresses of all persons who hold licenses under the provisions of sections 340.200 to 340.330, and shall publish a list of all persons whose licenses have been suspended, revoked, surrendered, restricted, denied, withheld, or otherwise disciplined, whether voluntarily or not. The board shall mail a copy of such list to any person, agency or professional association upon request and payment of a fee necessary for photocopying and postage as established by board rule. The board may forward such lists at no charge and upon its own motion for the purpose of voluntary interstate exchange of information or to other administrative or law enforcement agencies acting within the scope of their statutory authority, whether the same be interstate or intrastate.

3. Other provisions of section [620.010] **324.001**, RSMo, to the contrary notwithstanding, the board shall prepare and make available to the public a report upon the final disciplinary actions taken by the board or denial of licensure. Such report shall set forth findings of fact, grounds for such denial or discipline, names of board members who were present, and any resulting order or directive of the board; the same to apply whether or not discipline or denial is voluntarily agreed to by the licensee or applicant. Whenever a person possessing a license voluntarily enters chemical or alcohol treatment and monitoring programs for purposes of rehabilitation by informal agreement with the board, the action shall not be reported with any other actions taken or agreed to between the board and the licensee or applicant.

4. Where the board does not recommend disciplinary action, a report stating that no action is recommended shall be prepared and forwarded to the complaining party and the licensee or applicant.

5. Members of the board or employees of the board shall be immune from any suit predicated on the publication of information, reports or lists required by this section.

345.035. EMPLOYEES, SELECTION AND COMPENSATION, HOW. — 1. The board may, within the limits of appropriations, employ such board personnel as defined in subdivision (4)

of subsection [15] **10** of section [620.010] **324.001**, RSMo, as may be necessary to carry out its duties.

2. All expenses of the board shall be paid only from appropriations made for that purpose from the board of registration for the healing arts fund.

346.010. DEFINITIONS. — As used in sections 346.010 to 346.250, except as the context may require otherwise, the following terms mean:

- (1) "Audiologist", a clinical audiologist licensed pursuant to chapter 345, RSMo;
- (2) "Board", the Missouri board of examiners for hearing instrument specialists, which is established in section 346.120;
- (3) "Department", the department of [economic development] **insurance, financial institutions and professional registration**;
- (4) "Division", the division of professional registration [in the department of economic development];
- (5) "Hearing instrument" or "hearing aid", any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries, cords, receivers and repairs;
- (6) "Hearing instrument specialist" or "specialist", a person licensed by the state pursuant to sections 346.010 to 346.250 who is authorized to engage in the practice of fitting hearing instruments;
- (7) "Hearing instrument specialist in-training", a person who holds a temporary permit issued by the division to fit hearing instruments under the supervision of a hearing instrument specialist;
- (8) "License", a license issued by the state under sections 346.010 to 346.250 to hearing instrument specialists;
- (9) "Otolaryngologist", a person licensed to practice medicine and surgery in the state of Missouri pursuant to chapter 334, RSMo, and who spends the majority of the person's practice seeing patients with ear, nose, and throat diseases;
- (10) "Person", an individual, corporation, partnership, joint venture, association, trust or any other legal entity;
- (11) "Practice of fitting hearing instruments", the selection, adaptation, and sale of hearing instruments, including the testing and evaluation of hearing by means of an audiometer and the making of impressions for earmolds;
- (12) "Sell or sale", any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers;
- (13) "Registration of supervision", the process of obtaining a certificate of authority issued by the division to a hearing instrument specialist that enables the specialist to supervise one or more hearing instrument specialists in-training, as defined by division rules;
- (14) "Supervised training", the program of education and experience, as defined by division rule, required to be followed by each hearing instrument specialist in-training;
- (15) "Supervisor", a hearing instrument specialist who has filed a registration of supervision with the board and has received from the division a certificate of authority;
- (16) "Temporary permit", a permit issued by the division while the applicant is in training to become a licensed hearing instrument specialist.

354.305. CORPORATION ADVERTISING ASSETS ALSO TO SHOW LIABILITIES — PENALTIES. — 1. Whenever any corporation subject to the provisions of sections 354.010 to 354.380 doing business in this state advertises its assets, either in any newspaper or periodical, or by any sign, circular, card, policy of insurance or certificate of renewal thereof, it shall, in the same connection, equally conspicuously advertise its liabilities, the same to be determined in the manner required in making statement to the [insurance division] **department**, and all

advertisements purporting to show the amount of capital of the company shall show only the amount of capital actually paid up in cash.

2. Any corporation subject to the provisions of sections 354.010 to 354.380 or enrollment representative violating the provisions of this section shall, upon conviction thereof, be guilty of a class B misdemeanor, punishable as provided by law.

361.010. DIVISION OF FINANCE CREATED — LOCATION OF OFFICE — TRANSFER OF DIVISION. — 1. There is hereby created a "State Division of Finance", which shall be under the management and control of a chief officer who shall be called the "Director of Finance".

2. The director of finance shall maintain his office at the City of Jefferson, reside in the state of Missouri, and shall devote all of his time to the duties of his office. The division of design and construction is hereby required to provide the director of finance and the state division of finance with suitable rooms.

3. **The division of finance with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04, to the department of insurance, financial institutions and professional registration. All of the general provisions, definitions, and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel.**

4. **Wherever the laws, rules, or regulations of this state make reference to the "division of finance of the department of economic development" or to the "division of finance", such references shall be deemed to refer to the division of finance of the department of insurance, financial institutions and professional registration.**

361.092. STATE BANKING BOARD CREATED. — There is hereby created [in the department of economic development], a "State Banking Board" which shall have such powers and duties as are conferred upon it by law. **The state banking board with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04, to the department of insurance, financial institutions and professional registration.**

361.140. PREPARATION OF INFORMATION FOR REPORT OF DEPARTMENT OF ECONOMIC DEVELOPMENT. — 1. The director of finance shall prepare the following information to be included in the report of the director of the department of [economic development] **insurance, financial institutions and professional registration:**

(1) A summary of the state and condition of every corporation required to report to him or her and from which reports have been received or obtained pursuant to subsection 3 of section 361.130 during the preceding two years, at the several dates to which such reports refer, with an abstract of the whole amount of capital reported by them, the whole amount of their debts and liabilities and the total amount of their resources, specifying in the case of banks and trust companies the amount of lawful money held by them at the time of their several reports, and such other information in relation to such corporations as, in his or her judgment, may be useful;

(2) A statement of all corporations authorized by him or her to do business during the previous biennium with their names and locations and the dates on which their respective certificates of incorporation were issued, particularly designating such as have commenced business during the biennium;

(3) A statement of the corporations whose business has been closed either voluntarily or involuntarily, during the biennium, with the amount of their resources and of their deposits and other liabilities as last reported by them and the amount of unclaimed and unpaid deposits, dividends and interest held by him or her on account of each;

(4) A statement of the amount of interest earned upon all unclaimed deposits, dividends and interest held by him or her pursuant to the requirements of this chapter;

(5) Any amendments to this chapter, which, in his or her judgment, may be desirable;

(6) The names and compensation of the deputies, clerks, examiners, special agents and other employees employed by him or her, and the whole amount of the receipts and expenditures of the division during each of the last two preceding fiscal years.

2. All such reports shall be printed at the expense of the state and paid for as other public printing.

361.160. EXAMINATION OF BANKS AND TRUST COMPANIES. — 1. The director of finance at least once each year, either personally or by a deputy or examiner appointed by the director, shall visit and examine every bank and trust company organized and doing business under the laws of this state, and every other corporation which is by law required to report to the director; except, for banks or trust companies receiving a Camel 1 or Camel 2 rating from the division of finance, the director of finance at least once each eighteen calendar months either personally or by a deputy or examiner appointed by the director, shall visit and examine such bank or trust company, and the director of finance, at the director's discretion, may conduct the director's examination, or any part thereof, on the basis of information contained in examination reports of other states, the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits performed by certified public accountants. The director shall be afforded prompt and free access to any workpapers upon which a certified public accountant bases an audit. A certified public accountant shall retain workpapers for a minimum of three years after the date of issuance of the certified public accountant's report to the bank or trust company. The director or the director's agent may concentrate the examinations on institutions which the director believes have safety or soundness concerns.

2. The director, or the deputy or examiners designated by the director for that purpose, shall have power to examine any such corporation whenever, in the director's judgment, it may be deemed necessary or expedient, and shall have power to examine every agency located in this state of any foreign banking corporation and every branch in this state of any out-of-state bank, for the purpose of ascertaining whether it has violated any law of this state, and for such other purposes and as to such other matters as the director may prescribe.

3. The director and the director's deputy and examiners shall have power to administer oaths to any person whose testimony may be required in such examination or investigation of any such corporation or agency, and to compel the appearance and attendance of any person for the purpose of any such examination or investigation.

4. On every such examination inquiry shall be made as to the condition and resources of such corporation, the mode of conducting and managing its affairs, the actions of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to its creditors, and whether the requirements of its charter and of law have been complied with in the administration of its affairs, and as to such other matters as the director may prescribe.

5. The director may also make such special investigations as the director deems necessary to determine whether any individual or corporation has violated any of the provisions of this law.

6. Such examination may be made and such inquiry instituted or continued in the discretion of the director after the director has taken possession of the property and business of any such corporation, until it shall resume business or its affairs shall be finally liquidated in accordance with the provisions of this chapter.

7. The result of each examination shall be certified by the director or the examiner upon the records of the corporation examined and the result of all examinations during the biennial period shall be embodied in the report to be made by the director of the department of [economic development] **insurance, financial institutions and professional registration** to the legislature.

8. The director may contract with regulators in other states to provide for the examination of Missouri branches of out-of-state banks and branches of banks whose home state is Missouri.

The agreements may provide for the payment by the home state of the cost of examinations conducted by the host state at the request of the home state regulators.

362.109. RESTRICTIONS ON ORDERS AND ORDINANCES OF POLITICAL SUBDIVISIONS. — Notwithstanding any law to the contrary, any order or ordinance by any political subdivision shall be consistent with and not more restrictive than state law and regulations governing lending or deposit taking entities regulated by the division of finance or the division of credit unions [within the department of economic development].

362.332. FIDUCIARY OBLIGATIONS AND LIABILITIES, BANK OR TRUST COMPANY MAY TRANSFER TO ANOTHER BANK OR TRUST COMPANY, PROCEDURE — DEFINITIONS. — 1. As used in this section, the following words and phrases shall mean:

(1) "Bank", any bank subject to the provisions of chapter 362, which is duly authorized to exercise trust powers, and any national bank which is authorized to exercise trust powers under the laws of the United States and which has its principal place of business in Missouri, including a national bank whose operations include providing trust and other fiduciary services and related activities;

(2) "Beneficiary", any person or entity which benefits from, or has a present or future interest in, any money or property administered by a person with a fiduciary obligation;

(3) "Director", the director of the division of finance [of the department of economic development];

(4) "Fiduciary obligation", any obligation of any bank or trust company to a person or entity resulting from an appointment, designation or undertaking to act alone or jointly with others primarily for the benefit of others in matters connected with such appointment, designation or undertaking, and including, but is not limited to, acting as a trustee of a trust, including a testamentary or nontestamentary trust, or a trustee of a common trust fund; executor; administrator; personal representative; guardian; conservator; custodian; assignee; depository; receiver; attorney-in-fact; registrar or transfer agent with respect to stocks, bonds or other evidences of indebtedness of any corporation, association, state, municipality, or public authority; agent, including escrow agent or agent for the investment of money; or in any other similar capacity. The term "fiduciary obligation" includes any obligation occurring as a result of an appointment or designation to any foregoing capacity upon the death of a person serving in such capacity or upon the happening of any other future event;

(5) "Transferee", a bank or trust company assuming fiduciary obligations pursuant to this section from a transferor;

(6) "Transferor", a bank or trust company transferring fiduciary obligations pursuant to this section to a transferee;

(7) "Trust company", any trust company or bank organized under the laws of this state which is duly authorized to exercise trust powers.

2. Notwithstanding any other provision of law to the contrary, a bank or trust company may transfer by assignment to another bank or trust company any or all of the fiduciary obligations of such bank or trust company, without any order of or other action by any court or any consent or other approval of any interested person, except as provided in subsection 5 of this section, upon the prior approval of the director and provided that the transferor and transferee comply with the provisions of this section. The assignment may encompass all fiduciary obligations, a general class or classes of fiduciary obligations, or specified individual accounts or other particularly identified fiduciary obligations.

3. The transferor, transferee or any beneficiary on behalf of all beneficiaries jointly, shall file an application for approval of the transfer of a fiduciary obligation with the director, and shall provide all relevant information as the director may deem necessary. The transferee shall also file proof with the director that the transferee has given written notice by certified mail of the proposed transfer, including a summary of the provisions of subsection 5 of this section relating

to objections to the transfer of the fiduciary obligation, at least thirty days and not more than sixty days prior to the filing of the application, to the transferor, all persons, firms, organizations or corporations who are known to the applicant to be living or existing grantors under each affected trust or other fiduciary obligation, or if there is no such known living or existing grantor, to each living or existing beneficiary thereof known to the transferee. If any living or existing grantor or any such beneficiary delivers to the applicant any communication regarding the proposed transfer, the applicant shall furnish the director with a copy of such communication together with any accompanying documents. If the director determines that the transferee has the authority and is qualified to complete the fiduciary obligation, and that the transfer of the fiduciary obligation will not materially adversely affect the fiduciary obligation, he shall issue an order approving the transfer of the fiduciary obligation. If the director fails to approve or deny the transfer of the fiduciary obligation within thirty days of the date of the filing of the application with the director, the application shall be deemed approved by the director.

4. If the director approves the transfer of a fiduciary obligation, within twenty days of the approval, the transferee shall publish a notice of the transfer of the fiduciary obligation pursuant to this section in a newspaper of general circulation in the county or city where the transferor's main banking house or principal place of business, respectively, is located. The transfer of the fiduciary obligation shall be effective upon the thirtieth day after the date of such publication except with respect to any fiduciary obligation which upon that date is the subject of notice of objection made pursuant to subsection 5 of this section.

5. Within thirty days after the publication of notice of approval by the director of the transfer of a fiduciary obligation pursuant to subsection 4 of this section, any grantor or beneficiary who was entitled to receive a written notice pursuant to subsection 3 of this section may give written notice to the transferee objecting to the transfer of the fiduciary obligation in which such person has an interest. In order to complete the transfer, the transferee may petition the probate division of the circuit court of the county or city not within a county in which the notice was published to determine whether the transfer of the fiduciary capacity will materially adversely affect the administration of the fiduciary account. After notice to all interested parties and a hearing on the issues, the circuit court may deny the relief sought by the petitioning transferee and not transfer the fiduciary obligation to the petitioning transferee, may appoint a new fiduciary to succeed the transferor if the court finds that the appointment of a new fiduciary is in the best interests of the beneficiaries of the fiduciary obligation but that the transfer of the fiduciary obligation to the petitioning transferee will materially adversely affect the administration of the fiduciary account, or shall order the transferor to transfer by assignment the fiduciary obligation to the petitioning transferee.

6. On the effective date of the transfer of a fiduciary obligation pursuant to this section, the transferor shall be released from all transferred fiduciary obligations and all liability relating to such transferred fiduciary obligations, and shall cease to act regarding all such transferred fiduciary obligations, except that such transferor shall not be relieved of any liabilities arising out of a breach of a fiduciary obligation occurring prior to such effective date. The transferor shall file an itemized accounting of all assets and liabilities in each transferred fiduciary account with the transferee upon the effective date of the transfer. Notwithstanding the provision of any law or the provision of any agreement to the contrary, the transferor shall not impose fees relating to the transfer of the fiduciary obligation in excess of the actual cost to the transferor of the transfer of the fiduciary obligation. The failure by a bank or trust company to give any notice required by subsection 3 of this section with respect to any fiduciary account shall not affect the validity of the transfer of a fiduciary obligation pursuant to this section with respect to any other fiduciary obligation or account.

7. Any appointment or other designation of a bank or trust company to a fiduciary obligation in a trust, will or other instrument shall be deemed to be made based only on facts and circumstances in existence on the date and at the time that the appointment or designation is made, and the director or a court, when considering the transfer of a fiduciary obligation, shall

consider whether the transferee has the authority to complete the fiduciary obligation and is qualified to do so, the effect of the transfer of the fiduciary obligation including whether the transfer of the fiduciary obligation will materially adversely affect the fiduciary obligation, and whether the transfer of the fiduciary obligation is in the best interests of the beneficiaries of the fiduciary obligation.

362.910. DEFINITIONS. — As used in sections 362.910 to 362.940, unless the context clearly indicates otherwise, the following terms mean:

(1) "Bank", any bank, trust company or national banking association which accepts demand deposits and makes loans, and which has its principal banking house in Missouri and a branch of any bank, trust company or national banking association which accepts demand deposits and which has a physical presence in Missouri, other than a branch located outside of Missouri;

(2) "Bank holding company", any company which has control over any bank or over any company that is a bank holding company;

(3) "Company", any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, but shall not include any corporation the majority of the shares of which are owned by the United States or by any state;

(4) "Control", a company has control over a bank, trust company, or company if:

(a) The company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote twenty-five percent or more of any class of voting securities of the bank or company;

(b) The company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(c) The company directly or indirectly exercises a controlling influence over the management or policies of the bank or company;

(d) Provided, however, no company shall be deemed to have control over a bank or a company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities and which are held only for such period of time as will permit the sale thereof upon a reasonable basis, or which is formed for the sole purpose of participating in a proxy solicitation, or which acquires ownership or control of shares in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition, or which acquires ownership or control of shares in a fiduciary capacity. For the purpose of sections 362.910 to 362.940, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company in its capacity as trustee of a trust has sole discretionary authority to exercise voting rights with reference thereto; except that this limitation is applicable in the case of a bank or company which acquired such shares prior to December 31, 1970, only if the bank or company had the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the trust relationship to divest itself of such voting rights and failed to exercise that right to divest prior to December 31, 1971;

(5) "Director" or "director of finance", the director of the division of finance [of the department of economic development];

(6) "Trust holding company", any company which has control over any trust company or over any company that is a trust holding company.

367.500. DEFINITIONS. — As used in sections 367.500 to 367.533, unless the context otherwise requires, the following terms mean:

(1) "Borrower", a person who borrows money pursuant to a title loan agreement;

(2) "Capital", the assets of a person less the liabilities of that person. Assets and liabilities shall be measured according to generally accepted accounting principles;

(3) "Certificate of title", a state-issued certificate of title or certificate of ownership for personal property;

(4) "Director", the director of the division of finance [of the department of economic development] or its successor agency;

(5) "Person", any resident of the state of Missouri or any business entity formed under Missouri law or duly qualified to do business in Missouri;

(6) "Pledged property", personal property, ownership of which is evidenced and delineated by a title;

(7) "Title lending office" or "title loan office", a location at which, or premises in which, a title lender regularly conducts business;

(8) "Title lender", a person qualified to make title loans pursuant to sections 367.500 to 367.533 who maintains at least one title lending office within the state of Missouri, which office is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

(9) "Title loan agreement", a written agreement between a borrower and a title lender in a form which complies with the requirements of sections 367.500 to 367.533. The title lender shall perfect its lien pursuant to sections 301.600 to 301.660, RSMo, but need not retain physical possession of the titled personal property at any time; and

(10) "Titled personal property", any personal property excluding property qualified to be a personal dwelling the ownership of which is evidenced by a certificate of title.

370.006. DIVISION OF CREDIT UNIONS CREATED — TRANSFER — SALARY OF DIRECTOR. — There is hereby created a "Division of Credit Unions", to be headed by a director appointed by the governor with the advice and consent of the senate. The division of credit unions with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04, to the department of insurance, financial institutions and professional registration. All of the general provisions, definitions, and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its divisions, agencies, and personnel. The salary of the director of the division of credit unions shall be set by the director of the department within the limits of the appropriations therefor. Wherever the laws, rules, or regulations of this state make reference to the "division of credit unions of the department of economic development" or to the "division of credit unions", such references shall be deemed to refer to the division of credit unions of the department of insurance, financial institutions and professional registration.

370.366. CENTRAL CREDIT UNION CONVERSION, CONSOLIDATION OR MERGER WITH BANK OR TRUST COMPANY, WHEN, REQUIREMENTS. — 1. Upon compliance with any applicable laws of the United States and upon obtaining the approval of the directors of the division of finance and the division of credit unions [within the department of economic development], any central credit union organized pursuant to section 370.365 may be converted under the laws of this state into a bank or trust company located in this state, or may be consolidated or merged with one or more banks or trust companies or central credit unions incorporated under the laws of the United States or any state under the charter of a bank or trust company incorporated under the laws of this state; provided, however, that the central credit union and its members must comply with the procedure, notice and voting requirements of sections 370.351 to 370.357, and that the approval of the director of finance shall not be required for transactions not involving a bank or trust company. The name of the resulting or surviving bank or trust company in the case of conversion, consolidation or merger may be the name of a party to the conversion, consolidation or merger, provided that in no case shall the name contain the word "national" or "federal" or be the same as or deceptively similar to the name of

any bank or trust company incorporated under the laws of this state which is engaged in business at the time of the particular conversion, consolidation or merger and is not a party thereto.

2. (1) In the case of conversion the majority of the board of directors of the central credit union shall proceed as is provided by law for other individuals incorporating a bank or trust company under the laws of this state except that the articles of agreement:

(a) May provide that instead of the capital stock having actually been paid up in money it is to be paid up in assets of the converting central credit union, the net value of which is equal to at least the full amount of the capital stock of the proposed resulting bank or trust company which capital stock shall be no less than that required by law for a bank or trust company, as the case may be, to be located in the state of Missouri;

(b) Shall provide that the proposed resulting bank or trust company is and shall be considered the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting central credit union although as to rights, powers and duties the proposed resulting institution is a bank or trust company incorporated under the laws of the state of Missouri;

(c) Shall set out the names and addresses of all persons who are to be officers of the proposed bank or trust company; and

(d) Shall set out the manner as provided in subdivision (1) of section 370.356 in which the ownership interest of the members shall be converted into stock of the resulting bank or trust company which stock ownership by the member or shareholder shall be lawful for this sole purpose; provided, however, that the director of finance may reject any such application upon a determination that the statutory treatment accorded the members of the converting central credit union is not fair and reasonable.

(2) If the director of finance, as the result of an examination and investigation made by the division of finance, is satisfied that such assets are of such value and that the character, responsibility and general fitness of the persons named in the articles of agreement are such as to command confidence and warrant belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the purpose and intent of the laws of this state relative to banks or trust companies, the director of finance shall grant the charter. If the director of finance is not satisfied, the director of finance shall forthwith give notice thereof to the majority of the board of directors of the converting central credit union who shall have the same right of appeal as is provided by the laws of this state in the case of the proposed incorporators of a new bank or trust company.

(3) Upon the approval of the particular conversion being granted, the director of finance shall execute and deliver to the majority of the board of directors of the converting central credit union a certificate declaring that the bank or trust company therein named has been duly organized and is the institution resulting from the conversion of the central credit union into the resulting bank or trust company, and that the resulting bank or trust company is and shall be considered the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting central credit union. The certificate shall be recorded in the office of the recorder of deeds of the county or city in which the resulting bank or trust company is located and the certificate so recorded, or certified copies thereof, shall be taken in all the courts of this state as evidence of the conversion of the central credit union into the resulting bank or trust company and that the resulting bank or trust company is the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting central credit union.

(4) When the director of finance has given a certificate as aforesaid:

(a) The resulting bank or trust company and all its stockholders, directors, officers, and employees shall have the same powers and privileges and be subject to the same duties and liabilities in all respects as if such an institution had originally been organized as a bank or trust company under the laws of this state;

(b) All the rights, franchises, and interests of the converting central credit union in and to every type of property, real, personal and mixed, and choses in action thereto belonging shall be deemed to be transferred to and vest in the resulting bank or trust company without any deed or other transfer; and

(c) The resulting bank or trust company by virtue of the conversion and without any order of any court or otherwise shall hold and enjoy the same and all rights of property and interests including, but not limited to, appointments, designations and nominations and all other rights and interests, as trustee, personal representative, conservator, receiver, registrar, assignee and every other fiduciary capacity in the same manner and to the same extent as these rights and interests were held or enjoyed by the converting central credit union at the time of its conversion into the resulting bank or trust company; provided, however, that its corporate powers shall be limited to those granted to a bank or trust company under the laws of this state.

3. In the case of consolidation or merger, the same shall be consummated by each federally chartered central credit union complying with the laws of the United States relating to the consent of its members, by each state chartered central credit union complying with sections 370.351 to 370.357 relating to the consent of its members, and also by each bank or trust company complying with the provisions of the laws of this state relating to consolidation or merger of banks or trust companies, except that where the resulting institution is a bank rather than a trust company the number and qualifications of directors and any requirement that directors shall or may be divided into classes shall be determined as provided by law for banks. The rights of dissenting shareholders of the bank or trust company shall be determined as provided by the laws of this state in the case of consolidation or merger of banks or trust companies. The rights of dissenting shareholders of the central credit union shall be determined as provided by section 370.356. In the case of consolidation or merger the resulting bank or trust company shall be considered the same business and corporate entity as, and a continuation of the corporate entity and identity of, each central credit union and each bank or trust company which is a party to the consolidation or merger.

374.005. DEPARTMENT CREATED, DUTIES — DEFINITIONS. — 1. The department of insurance created by section 36(b) of article IV of the Missouri constitution shall operate under the name "Department of Insurance, Financial Institutions and Professional Registration". Under the authority of the Omnibus State Reorganization Act of 1974 and Executive Order 06-04, the department shall administer and enforce the laws assigned to the department.

2. Unless otherwise clearly indicated by the context, the following words, as used in this chapter, mean:

(1) "Department", the department of insurance, financial institutions and professional registration; and

(2) "Director", the director of the department of insurance, financial institutions and professional registration.

3. Wherever the laws, rules, or regulations of this state make reference to the "department of insurance" or the "department of insurance, financial institutions and professional registration", such references shall be deemed to refer to the department created by section 36(b) of article IV of the Missouri constitution and this chapter.

374.007. STATUTORY REFERENCE CHANGES AUTHORIZED. — 1. The revisor of statutes shall change all references in the revised statutes of Missouri from "department of insurance", "insurance department" or "department of insurance, financial and professional regulation" to "department of insurance, financial institutions and professional registration".

2. The revisor of statutes shall change all references in the revised statutes of Missouri from "director of insurance" or "commissioner of insurance" to "director of the department of insurance, financial institutions and professional registration".

374.045. DIRECTOR AUTHORIZED TO MAKE RULES AND REGULATIONS, PROCEDURE, THIS CHAPTER. — 1. The director shall have the full power and authority to make all reasonable rules and regulations to accomplish the following purposes:

(1) To regulate the internal affairs of the department of insurance, **financial institutions and professional registration;**

(2) To prescribe forms and procedures to be followed in proceedings before the department of insurance, **financial institutions and professional registration;** and

(3) To effectuate or aid in the interpretation of any law of this state [pertaining to the business of insurance] **in this chapter, chapter 354, RSMo, chapters 375 to 385, RSMo, or as otherwise authorized by law.**

2. The director may from time to time withdraw or amend any rule or regulation **in this chapter, chapter 354, RSMo, chapters 375 to 385, RSMo, or as otherwise authorized by law.**

3. No rule or regulation shall conflict with any law of this state. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. At least fifteen days prior to the adoption of any rule or regulation, or any amendment thereof, to be issued under the provisions of subdivision (3) of subsection 1, the director shall give notice of a hearing on the proposed action. The notice shall be mailed to all persons who have made timely requests of the [department of insurance] **director** for advance notice of its rulemaking proceedings. The notice shall contain a statement of the terms or the substance of the proposed rule or regulation. In addition, the notice shall give the time and place where a hearing on the proposed rule or regulation will be held and the manner in which interested parties may present their views thereon. On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments in writing or orally. The failure of any person to receive any notice of a hearing on any proposed rule or regulation shall not invalidate any rule or regulation subsequently adopted.

5. The willful violation of any rule or regulation shall subject the person violating it to such penalty as may be applicable and which the director has within his power to impose under the laws of this state relating to the business of insurance for violation of the law to which the rule or regulation relates.

6. Upon request and payment of the reasonable cost thereof, if required and fixed by the director, the director shall furnish a copy of any rule, regulation, or order to any person so requesting.

374.070. OFFICE AND RECORDS, PUBLIC — COPIES — RECORDS DISPOSED OF OR DESTROYED, WHEN. — 1. The office shall be a public office and the records shall be public records and shall at all times be open to the inspection of the public subject to such rules as the director shall make for their safekeeping; provided, however, that the work product of the director, the director's employees and agents, including but not limited to work papers of examinations of companies, work papers of investigations of **insurance companies[, agents, brokers and insurance agencies] and producers and other persons licensed or with a certificate of authority under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or of other entities as provided by law** and confidential communications to the [department of insurance] **director**, shall not be considered public records except as [the director may decide otherwise] **provided by law.**

2. When requested, the director shall furnish certified copies of any paper, report, or documents on file in the director's office to any person requesting them, upon payment of the fees allowed by law.

3. Five years after the conclusion of the transactions to which they relate, the director is authorized to destroy or otherwise dispose of all correspondence, complaints, claim files, working papers of examinations of companies, examination reports of companies made by the insurance supervisory officials of states other than Missouri, rating files, void or obsolete or superseded rate filings and schedules, individual company rating experience data, applications, requisitions, and requests for licenses, all license cards and records, all expired bonds, all records of hearings, and all similar records, papers, documents, and memoranda now or hereafter in the possession of the director.

4. Ten years after the conclusion of the transactions to which they relate, the director is authorized to destroy or otherwise dispose of all foreign companies' and alien companies' annual statements, valuation reports, tax reports, and all similar records, papers, documents and memoranda now or hereafter in the possession of the director.

5. Disposal and destruction of records shall be in accordance with sections 109.200 to 109.310, RSMo.

374.075. DIVISIONS, DIRECTOR MAY ESTABLISH. — 1. The director [of the department of insurance] may establish [two] **three** or more divisions within the department **to administer and enforce the laws of this state relating to insurance.** The director shall establish at least one division, to be known as the "Division of Consumer Affairs", which shall perform the functions of the consumer services section in addition to such other functions as may be assigned to it by the director. **The director shall establish a division to be known as the "Division of Insurance Company Regulation", which shall perform the functions of insurance company admissions and financial supervision, in addition to such other functions as may be assigned to it by the director, and a division to be known as the "Division of Insurance Market Regulation", which shall perform the functions of rate and form regulation in addition to such other functions as may be assigned to it by the director.**

2. [Any division established by the director shall be considered as though it were transferred to the insurance department under a type I transfer under section 1 of the Reorganization Act of 1974, except that the advisory commission on insurance regulation, established in section 374.281, shall review the need for the division of consumer affairs to be transferred under a type III transfer and report its findings to the general assembly within one year after June 26, 1991.

3. All property, functions, duties and funds of the division of insurance as it existed under the department of economic development shall be transferred to the department of insurance. In addition, the property, functions, duties and funds formerly possessed, performed, assigned or appropriated to the department of economic development on behalf or for the benefit of the division of insurance shall be transferred to the department of insurance.

4.] Wherever the laws, rules or regulations of this state make reference to the "division of insurance" or to the "insurance division", such references shall be deemed to refer to the department of insurance, **financial institutions and professional registration.**

374.085. DIVISION OF CONSUMER AFFAIRS, DUTIES — LEGAL ADVISER MAY ASSIST. —

1. The division of consumer affairs of the department of insurance, **financial institutions and professional registration** shall perform the following functions:

(1) The division shall receive complaints and inquiries from the general public concerning insurance companies, health services corporations and health maintenance organizations, their agents and employees, **insurance producers, and any other persons licensed by or registered with the department, except those licensed by the division of finance, credit unions or professional registration, or any boards assigned to those divisions;**

(2) The division shall maintain records of each complaint received and the disposition of that complaint, indexed by type of complaint, company, and such other factors as the section deems appropriate;

(3) The division shall operate a statewide toll-free telephone service to receive complaints and inquiries, and shall publicize the existence of this service to the general public;

(4) The division shall investigate complaints received of unfair or unlawful acts under the insurance laws of this state and shall close the file on each investigation only when the director of the consumer services division is satisfied that the person or persons complained against have taken a fair and reasonable position or one which is legally correct;

(5) The division shall prepare such brochures and other documents as it deems appropriate to help inform the general public on such topics as the state's insurance laws, insurance practices, policy coverages and policy costs; and

(6) The division shall recommend changes to state statutes when it considers such statutes to adversely or unfairly affect the interests of the general public.

2. In performing the functions of this section, the consumer services division may be assisted by a legal adviser. The legal adviser shall be an attorney licensed to practice law in the state of Missouri and shall possess a knowledge of the state's insurance laws and regulations.

374.115. INSURANCE EXAMINERS, COMPENSATION OF. — Insurance examiners appointed or employed by the director of the department of insurance, **financial institutions and professional registration** shall be compensated according to the applicable levels established and published by the National Association of Insurance Commissioners.

374.180. DIRECTOR TO PREPARE REPORT — PUBLICATION — SPECIAL REPORTS. — 1. The director of the department of insurance, **financial institutions and professional registration** shall prepare the following information to be included in the biennial report [of the director of the department of economic development] **to the general assembly**:

(1) A brief review of the department during the period covered by the report, including a verified statement of the various sums received and disbursed by him, and from and to whom, and for what purposes;

(2) Name, address, capital stock, in case of companies having a capital stock, resources, insurance in force, and the amount and nature of collateral deposited by each insurance company or association authorized or licensed to do business in this state;

(3) A tabular statement, and synopsis of the annual statements, as accepted by the director, of all insurance companies doing business in this state;

(4) Such other matters as in his opinion may be for the benefit of the public and such recommendations as he shall deem proper in regard to the insurance laws of this state.

2. No more than two thousand copies of such report shall be published by order of the director, at the expense of the department.

3. The director shall make such additional reports as shall be required by the governor.

374.202. PURPOSE OF LAW — DEFINITIONS. — 1. The purpose of sections 374.202 to 374.207 is to provide an effective and efficient system for examining the activities, operations, financial or market conduct, condition and affairs of all persons transacting the business of insurance in this state and all persons otherwise subject to the jurisdiction of the director. The provisions of sections 374.202 to 374.207 are intended to enable the director to adopt a flexible system of examinations which directs resources as the director may deem appropriate and necessary for the administration of the insurance related laws of this state.

2. As used in sections 374.202 to 374.207, the following terms mean:

(1) "Company", any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory or taxing authority of the director, **not**

assigned to the functional regulation of the divisions of finance, credit unions, or professional registration, or boards assigned to or within those divisions;

(2) "Department", the department of insurance, **financial institutions and professional registration** of this state;

(3) "Director", the director of the department of insurance, **financial institutions and professional registration** of this state;

(4) "Examiner", any individual or firm having been authorized by the director to conduct an examination under sections 374.202 to 374.207;

(5) "Insurer" has the same meaning as insurer under sections 375.1150 to 375.1246, RSMo;

(6) "Person", any individual, aggregation of individuals, trust, association, partnership or corporation, or any affiliate thereof.

374.217. COVENANT NOT TO SUE OFFICERS OF INSURER, PROHIBITED — NO FORCE AND EFFECT. — 1. The director or any other employee of the department of insurance, **financial institutions and professional registration** shall not enter into any covenant not to sue or any agreement to defer, refrain or desist from instituting or asserting against any officer or director of any insurer or any other person or entity **in the business of insurance and** regulated by the department [of insurance], any claim, demand, action or suit, either administrative or judicial, for injuries, damages or penalties to the state or any person or property.

2. Any covenant or agreement entered into in derogation of subsection 1 of this section, [either before or after August 28, 1991,] shall be deemed to be in violation of the public policy of this state that the general assembly shall by law provide adequate regulation of insurers in order to protect citizens of this state; and that the department [of insurance] shall carry out and enforce such regulation. The courts of this state shall not enforce or give effect to any such covenant or agreement.

374.220. EXPENSES, HOW PAID. — 1. The expenses of proceedings against insurance companies, and examinations of the assets or liabilities and valuations of policies of insurance companies doing business in this state, shall be assessed by the director upon the company proceeded against or examined, or whose policies have been valued.

2. If the company has been or shall be adjudged insolvent, or shall neglect, fail or refuse to pay the expenses, the director may approve the payment of the expenses, in whole or in part, which shall be paid in like manner as other expenses of the [insurance] department; and the amount so paid, together with cost, charges and fees for collecting the same, shall be a first lien upon all the assets and property of such company, and may be recovered by the director of revenue in any court of competent jurisdiction; or if said company be in liquidation, or process of being wound up, the cost and expenses of settling its affairs shall be allowed and taxed as cost against said company, and shall be a first lien upon and payable out of its assets. The director of revenue shall deposit such sums in the state treasury to reimburse the insurance fund.

3. Before any costs of any examination or valuation shall be paid, vouchers for the same shall be submitted to and approved by the commissioner of administration.

4. When any examination or valuation is made by the director in person or by any salaried employee of the department [of insurance], the cost of making the same shall be certified to the director of revenue for collection.

374.250. ACCOUNTS OF DIRECTOR. — 1. The director shall take proper vouchers for all payments made by [him] **the department** and shall take receipts from the director of revenue for all moneys [he] **the department** pays to the director of revenue.

2. At the close of each state fiscal year, the state auditor shall audit, adjust and settle [the accounts for] all receipts and disbursements [by the director] **in the insurance dedicated fund and the insurance examiners' fund, and taxes certified or collected under sections 148.310 to 148.461, RSMo, or sections 384.011 to 384.071, RSMo.**

374.456. ANNUAL REPORT TO THE GENERAL ASSEMBLY BY THE DIRECTOR. — 1. The director of the department of insurance, **financial institutions and professional registration** shall personally report to the appropriate committees of the general assembly by March first of each year on the status of all actions initiated, maintained by the director, or which have been concluded, during the preceding year to enforce the provisions of this act. The director shall answer all questions regarding such actions, or regarding other matters that are related to the provisions of this act.

2. The report to the appropriate committees of the general assembly shall cover **enforcement actions related to sections 354.500 to 354.636, RSMo, relating to health maintenance organizations, sections 374.500 to 374.515 relating to utilization review agents, and sections 376.1350 to 376.1399, RSMo, relating to all managed care health benefit plans.**

375.001. DEFINITIONS. — 1. As used in this chapter, unless otherwise clearly indicated by the context, the following words mean:

(1) "Department", the department of insurance, financial institutions and professional registration;

(2) "Director", the director of the department of insurance, financial institutions and professional registration.

2. As used in sections 375.001 to 375.008 the following words and terms mean:

(1) "Insurer", all insurance companies, reciprocals, or interinsurance exchanges transacting the business of insurance in this state;

(2) "Nonpayment of premium", failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on the policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;

(3) "Nonrenewal", the determination of an insurer not to issue or deliver a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer or a certificate or notice extending the term of a policy beyond its policy period or term;

(4) "Policy", a contract of insurance providing fire and extended coverage insurance, whether separately or in combination with other coverages, on owner-occupied habitational property not exceeding two families. "Policy" does not include any insurance contracts issued under a property insurance inspection and placement program ("FAIR" plan) or an assigned risk plan, or any insurance contracts insuring property not used predominantly for habitational purposes, or an insurance contract insuring a mobile home;

(5) "Renewal" or "to renew", the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of the policy beyond its policy period or term. Any policy with a policy period or term of less than six months shall for the purposes of sections 375.001 to 375.008 be considered as if written for a policy period or term of six months. Any policy written for a term longer than one year or any policy with no fixed expiration date, shall for the purpose of sections 375.001 to 375.008, be considered as if written for successive policy periods or terms of one year, and the policy may be terminated at the expiration of any annual period upon giving thirty days' notice of cancellation prior to the anniversary date, and the cancellation shall not be subject to any other provisions of sections 375.001 to 375.008.

375.261. SERVICE OF PROCESS — PROCEDURE. — 1. Service of process as provided herein shall be made by delivery of two copies of the summons, with copies of the petition thereto attached, to the director [of the insurance department of this state], or in his or her absence to the deputy director of the [insurance] department, or in the absence of both the director and deputy director, to the chief clerk of the department [of insurance], at the office of

the director of the [insurance division] **department of insurance, financial institutions and professional registration** of this state at Jefferson City, Missouri. The director [of the insurance department] shall forthwith mail by certified mail, with return receipt requested, one of the copies of the summons, with petition thereto attached, to the defendant at its last known principal place of business, and shall keep a record of all process so served upon the director, deputy director or chief clerk, and the date of service, and the return receipt showing delivery thereof to the defendant shall be filed therewith.

2. The director [of the insurance department], upon receiving the return receipt, shall so certify the fact to the clerk of the court in which the action is pending. The service of process shall be deemed sufficient provided notice of service, and a copy of the summons, with a copy of plaintiff's petition thereto attached, are sent certified mail, with return receipt requested, within ten days after service of process upon the director [of the insurance department], or his **or her** deputy or chief clerk, as aforesaid, by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the return receipt therefor issued by the post office and the affidavit of plaintiff or plaintiff's attorney showing compliance with the aforesaid provisions are filed in the office of the clerk of the court in which the action is pending on or before the date the defendant is required to appear and defend the cause of action.

375.923. EXEMPT FORMS. — All forms on file with the director [of the division of insurance] on or before January 1, 1980, shall be exempt from the provisions of sections 375.920 to 375.923.

376.005. DEFINITIONS. — As used in this chapter, unless otherwise clearly indicated by the context, the following words mean:

- (1) "Department", the department of insurance, financial institutions and professional registration; and
- (2) "Director", the director of the department of insurance, financial institutions and professional registration.

377.005. DEFINITIONS. — As used in this chapter, unless otherwise clearly indicated by the context, the following words mean:

- (1) "Department", the department of insurance, financial institutions and professional registration; and
- (2) "Director", the director of the department of insurance, financial institutions and professional registration.

379.005. DEFINITIONS. — As used in this chapter, unless otherwise clearly indicated by the context, the following words mean:

- (1) "Department", the department of insurance, financial institutions and professional registration; and
- (2) "Director", the director of the department of insurance, financial institutions and professional registration.

380.005. DEFINITIONS. — As used in this chapter, unless otherwise clearly indicated by the context, the following words mean:

- (1) "Department", the department of insurance, financial institutions and professional registration; and
- (2) "Director", the director of the department of insurance, financial institutions and professional registration.

381.410. DEFINITIONS. — As used in this section and section 381.412, the following terms mean:

(1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

(2) "Certified funds", United States currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

(3) "Director", the director of the department of insurance, financial **institutions** and professional [regulation] **registration**, unless the settlement agent's primary regulator is [the division of finance] **another department**. When the settlement agent is regulated by such [division] **department**, that [division] **department** shall have jurisdiction over this section and section 381.412;

(4) "Financial institution":

(a) A person or entity doing business under the laws of this state or the United States relating to banks, trust companies, savings and loan associations, credit unions, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed under the Small Business Investment Act of 1958, 15 U.S.C. Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

(b) A mortgage loan company or mortgage banker doing business under the laws of this state or the United States which is subject to licensing, supervision, or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans' Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer, if their principal place of business is in Missouri or a state which is contiguous to Missouri;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter 339, RSMo.

383.005. DEFINITIONS. — As used in this chapter, unless otherwise clearly indicated by the context, the following words mean:

(1) "Department", the department of insurance, financial institutions and professional registration; and

(2) "Director", the director of the department of insurance, financial institutions and professional registration.

383.030. EXAMINATION BY DIRECTOR OF INSURANCE AUTHORIZED — ANNUAL LICENSE FEE — AMENDMENTS TO BYLAWS FILED, WHEN. — 1. The director [of the department of insurance] shall be authorized in accordance with sections [374.190 and 374.200] **374.202 to 374.207**, RSMo, or in the event that either or both of such sections are repealed, then any successor sections relating to financial examination, to examine the financial condition, affairs and management of any association organized under the provisions of sections 383.010 to 383.040, and the association shall pay the expenses of any such examination in accordance with sections 374.160 and 374.220, RSMo. Annually thereafter, within thirty days before the expiration of its license, each association shall pay a renewal license fee of one hundred dollars.

2. Any existing association shall also, at the time it files for renewal of its license, file any amendments to its articles of association or bylaws which have been adopted in the preceding year.

407.020. UNLAWFUL PRACTICES, PENALTY — EXCEPTIONS. — 1. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice. The use by any person, in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri of the fact that the attorney general has approved any filing required by this chapter as the approval, sanction or endorsement of any activity, project or action of such person, is declared to be an unlawful practice. Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement or solicitation.

2. Nothing contained in this section shall apply to:

(1) The owner or publisher of any newspaper, magazine, publication or printed matter wherein such advertisement appears, or the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser; or

(2) Any institution [or company that is under the direction and supervision of], **company, or entity that is subject to chartering, licensing, or regulation** by the director of the department of insurance, **financial institutions and professional registration under chapter 354, RSMo, or chapters 374 to 385, RSMo,** the director of the division of credit unions **under chapter 370, RSMo,** or director of the division of finance **under chapters 361 to 369, RSMo, or chapter 371, RSMo,** unless [the directors of such divisions] **such directors** specifically authorize the attorney general to implement the powers of this chapter or such powers are provided to either the attorney general or a private citizen by statute.

3. Any person who willfully and knowingly engages in any act, use, employment or practice declared to be unlawful by this section with the intent to defraud shall be guilty of a class D felony.

4. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this section, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

5. It shall be an unlawful practice for any long-term care facility, as defined in section 660.600, RSMo, except a facility which is a residential care facility or an assisted living facility, as defined in section 198.006, RSMo, which makes, either orally or in writing, representation to residents, prospective residents, their families or representatives regarding the quality of care provided, or systems or methods utilized for assurance or maintenance of standards of care to refuse to provide copies of documents which reflect the facility's evaluation of the quality of care, except that the facility may remove information that would allow identification of any resident. If the facility is requested to provide any copies, a reasonable amount, as established by departmental rule, may be charged.

6. Any long-term care facility, as defined in section 660.600, RSMo, which commits an unlawful practice under this section shall be liable for damages in a civil action of up to one thousand dollars for each violation, and attorney's fees and costs incurred by a prevailing plaintiff, as allowed by the circuit court.

407.1085. EXEMPTIONS — ATTORNEY GENERAL TO RECEIVE COMPLAINTS. — 1. The following acts or practices are exempt from the provisions of sections 407.1070 to 407.1082:

(1) Telephone calls in which the sale of merchandise is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the telemarketer or seller; or

(2) Telephone calls in which the sale of merchandise is completed and a written contract is forwarded to the consumer so long as the consumer may return the merchandise within fourteen days of receipt of the merchandise and receive a refund of any moneys paid except for any coverage, fees or services earned; provided that the telemarketer shall inform the consumer at the time of the call that:

(a) A written contract regarding the sale of the merchandise will be forwarded to the consumer;

(b) The approximate date of the delivery of the merchandise; and

(c) The consumer will have a right to terminate the contract within fourteen days of receipt of the merchandise, and upon returning the merchandise, shall have a right to a refund as provided in this subdivision.

The term "merchandise" as used in this subdivision shall mean merchandise sold by a person, institution or company that is under the direction and supervision of the director of the department of insurance, [director of the division of credit unions or director of the division of finance] **financial institutions and professional registration** or federally chartered banks, savings and loans and credit unions, **but shall not mean a person or company that is under the direction and supervision of the director of the division of professional registration or any board assigned thereto;**

(3) Telephone calls initiated by a consumer that:

(a) Are not the result of any advertisement by a seller or telemarketer;

(b) Are in response to an advertisement through any media, other than direct mail or telemarketing, which discloses the name of the seller and the identity of the merchandise; provided that, this exemption shall not apply to calls initiated by the consumer in response to an advertisement that offers a prize or investment opportunity, or is used to engage in telemarketing activities prohibited by subdivision (6) or (7) of section 407.1076; or

(c) Are in response to direct mail solicitations that clearly and conspicuously disclose and do not misrepresent the material information required by subsection 2 of section 407.1073; provided that, this exemption does not apply to calls initiated by the consumer in response to an advertisement that offers a prize or investment opportunity, or is to engage in telemarketing activities prohibited by subdivision (6) or (7) of section 407.1076; or

(d) Are in response to the mailing of a catalog which contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller, includes multiple pages of written materials or illustrations; and has been issued not less frequently than once a year, when the seller or telemarketer does not contact consumers by telephone but only receives calls initiated by consumers in response to the catalog, and stops further solicitation of items not in a catalog when the consumer states that he or she is not interested in any further solicitations; or

(4) Telephone calls or messages:

(a) To any consumer with such consumer's prior express invitation or permission;

(b) To any consumer with whom the seller has an established business relationship; or

(c) By or on behalf of any entity over which either a state or federal agency has regulatory authority to the extent that:

a. Subject to such authority, the entity is required to maintain a license, registration, certificate or permit to sell or provide the merchandise being offered through telemarketing; and

b. As of August 28, 2000, the state or federal agency has, directly or through a delegation of authority which is enforceable pursuant to state or federal law, promulgated rules that regulate

the telemarketing sales practices of the entity for the merchandise that entity offers through telemarketing and are reasonably consistent with the requirements of section 407.1070 through section 407.1079 and which allow consumer redress pursuant to that agency's rules or applicable federal law;

(d) Between a telemarketer and any business except calls involving the retail sale of nondurable office and cleaning supplies.

2. The office of the attorney general shall receive telemarketing complaints by means of a toll-free telephone number, by a notice in writing or by electronic means. Complaints against entities who are licensed, certificated or permitted and whose telemarketing practices are regulated by the same state or federal agency and which agency has rules regulating telemarketing practices shall be forwarded for investigation by the office of the attorney general to such agency. All other complaints shall be handled by the office of the attorney general.

408.233. ADDITIONAL CHARGES AUTHORIZED. — 1. No charge other than that permitted by section 408.232 shall be directly or indirectly charged, contracted for or received in connection with any second mortgage loan, except as provided in this section:

(1) Fees and charges prescribed by law actually and necessarily paid to public officials for perfecting, releasing, or satisfying a security interest related to the second mortgage loan;

(2) Taxes;

(3) Bona fide closing costs paid to third parties, which shall include:

(a) Fees or premiums for title examination, title insurance, or similar purposes including survey;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Fees for notarizing deeds and other documents;

(d) Appraisal fees; and

(e) Fees for credit reports;

(4) Charges for insurance as described in subsection 2 of this section;

(5) A nonrefundable origination fee not to exceed five percent of the principal which may be used by the lender to reduce the rate on a second mortgage loan;

(6) Any amounts paid to the lender by any person, corporation or entity, other than the borrower, to reduce the rate on a second mortgage loan or to assist the borrower in qualifying for the loan;

(7) For revolving loans, an annual fee not to exceed fifty dollars may be assessed.

2. An additional charge may be made for insurance written in connection with the loan, including insurance protecting the lender against the borrower's default or other credit loss, and:

(1) For insurance against loss of or damage to property where no such coverage already exists; and

(2) For insurance providing life, accident, health or involuntary unemployment coverage.

3. The cost of any insurance shall not exceed the rates filed with the [division] **department** of insurance, **financial institutions and professional registration**, and the insurance shall be obtained from an insurance company duly authorized to conduct business in this state. Any person or entity making second mortgage loans, or any of its employees, may be licensed to sell insurance permitted in this section.

4. On any second mortgage loan, a default charge may be contracted for and received for any installment or minimum payment not paid in full within fifteen days of its scheduled due date equal to five percent of the amount or fifteen dollars, whichever is greater, not to exceed fifty dollars. A default charge may be collected only once on an installment or a payment due however long it remains in default. A default charge may be collected at the time it accrues or at any time thereafter and for purposes of subsection 3 of section 408.234 a default charge shall be treated as a payment. No default charge may be collected on an installment or a payment due which is paid in full within fifteen days of its scheduled due date even though an earlier

installment or payment or a default charge on earlier installment or payments may not have been paid in full.

5. The lender shall, in addition to the charge authorized by subsection 4 of this section, be allowed to assess the borrower or other maker of refused instrument the actual charge made by any institution for processing the negotiable instrument, plus a handling fee of not more than twenty-five dollars; and, if the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and are not handled by a salaried employee of the holder of the contract or note.

408.570. DEFINITIONS. — Unless otherwise clearly indicated by the context, the following words and terms as used in sections 408.570 to 408.600 shall mean:

(1) "Department", the Missouri department of [economic development] **insurance, financial institutions and professional registration;**

(2) "Director", the director of the department of [economic development] **insurance, financial institutions and professional registration;**

(3) "Division director", the appropriate director of the division of finance or the division of credit unions of the department of [economic development] **insurance, financial institutions and professional registration;**

(4) "Financial institution", a bank, savings and loan association, credit union, consumer credit lender, mortgage banker, or any other association or institution which:

(a) Operates a place of business in Missouri; and

(b) As part of its business, makes residential real estate loans;

(5) "Residential real estate", any real estate used or intended to be used as a residence by not more than four families;

(6) "Residential real estate loan", a loan made for the acquisition, construction, repair, rehabilitation or remodeling of residential real estate or any loan secured by residential real estate. The term shall include any loan made to refinance or prepay in full or in part any such loan;

(7) "State financial institution", any financial institution other than a national banking association, a federal savings and loan association, and a federal credit union;

(8) "Type" of residential real estate loan, conventional loans, construction loans, loans insured by the Federal Housing Administration, loans guaranteed by the Veterans Administration, home improvement loans.

436.005. DEFINITIONS. — As used in sections 436.005 to 436.071, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition and who will receive funeral services, facilities or merchandise described in a preneed contract;

(2) "Division", the division of professional registration [of the department of economic development];

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or

(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

(4) "Person", any individual, partnership, corporation, cooperative, association, or other entity;

(5) "Preneed contract", any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance;

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) "Purchaser", the person who is obligated to make payments under a preneed contract;

(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;

(10) "State board", the Missouri state board of embalmers and funeral directors;

(11) "Trustee", the trustee of a preneed trust, including successor trustees.

443.803. DEFINITIONS. — 1. For the purposes of sections 443.800 to 443.893, the following terms mean:

(1) "Advertisement", the attempt by publication, dissemination or circulation to induce, directly or indirectly, any person to apply for a loan to be secured by residential real estate;

(2) "Affiliate":

(a) Any entity that directly controls, or is controlled by, the licensee and any other company that is directly affecting activities regulated by sections 443.800 to 443.893 that is controlled by the company that controls the licensee;

(b) Any entity:

a. That is controlled, directly or indirectly, by a trust or otherwise by, or for the benefit of, shareholders who beneficially, or otherwise, control, directly or indirectly, by trust or otherwise, the licensee or any company that controls the licensee; or

b. A majority of the directors or trustees of which constitute a majority of the persons holding any such office with the licensee or any company that controls the licensee;

(c) Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the licensee or any subsidiary or affiliate of the licensee;

(3) "Annual audit", a certified audit of the licensee's books and records and systems of internal control performed by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards;

(4) "Board", the residential mortgage board, created in section 443.816;

(5) "Borrower", the person or persons who use the services of a loan broker, originator or lender;

(6) "Director", the director of the division of finance [within the department of economic development];

(7) "Escrow agent", a third party, individual or entity, charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of those funds in accordance with the terms of the residential mortgage loan;

(8) "Exempt entity", the following entities:

(a) Any bank or trust company organized under the laws of this or any other state or any national bank or any foreign banking corporation licensed by the division of finance or the United States Comptroller of the Currency to transact business in this state;

(b) Any state or federal savings and loan association, savings bank or credit union or any consumer finance company licensed under sections 367.100 to 367.215, RSMo, which is actively engaged in consumer credit lending;

(c) Any insurance company authorized to transact business in this state;

(d) Any person engaged solely in commercial mortgage lending or any person making or acquiring residential or commercial construction loans with the person's own funds for the person's own investment;

(e) Any service corporation of a federally chartered or state-chartered savings and loan association, savings bank or credit union;

(f) Any first-tier subsidiary of a national or state bank that has its principal place of business in this state, provided that such first-tier subsidiary is regularly examined by the division of finance or the Comptroller of the Currency or a consumer compliance examination of it is regularly conducted by the Federal Reserve;

(g) Any person engaged solely in the business of securing loans on the secondary market provided such person does not make decisions about the extension of credit to the borrower;

(h) Any mortgage banker as defined in subdivision (19) of this subsection; or

(i) Any wholesale mortgage lender who purchases mortgage loans originated by a licensee provided such wholesale lender does not make decisions about the extension of credit to the borrower;

(j) Any person making or acquiring residential mortgage loans with the person's own funds for the person's own investment;

(k) Any person employed or contracted by a licensee to assist in the performance of the activities regulated by sections 443.800 to 443.893 who is compensated in any manner by only one licensee;

(l) Any person licensed pursuant to the real estate agents and brokers licensing law, chapter 339, RSMo, who engages in servicing or the taking of applications and credit and appraisal information to forward to a licensee or an exempt entity for transactions in which the licensee is acting as a real estate broker and who is compensated by either a licensee or an exempt entity;

(m) Any person who originates, services or brokers residential mortgage loans and who receives no compensation for those activities, subject to the director's regulations regarding the nature and amount of compensation;

(9) "Financial institution", a savings and loan association, savings bank, credit union, mortgage banker or bank organized under the laws of Missouri or the laws of the United States with its principal place of business in Missouri;

(10) "First-tier subsidiary", as defined by administrative rule promulgated by the director;

(11) "Full-service office", office and staff in Missouri reasonably adequate to handle efficiently communications, questions and other matters relating to any application for a new, or existing, home mortgage loan which the licensee is brokering, funding, originating, purchasing or servicing. The management and operation of each full-service office must include observance of good business practices such as adequate, organized and accurate books and records, ample phone lines, hours of business, staff training and supervision and provision for a mechanism to resolve consumer inquiries, complaints and problems. The director shall promulgate regulations with regard to the requirements of this subdivision and shall include an evaluation of compliance with this subdivision in the periodic examination of the licensee;

(12) "Government-insured mortgage loan", any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or Farmers Home Loan Administration, or guaranteed by the Veterans Administration;

(13) "Lender", any person who either lends money for or invests money in residential mortgage loans;

(14) "Licensee" or "residential mortgage licensee", a person who is licensed to engage in the activities regulated by sections 443.800 to 443.893;

(15) "Loan broker" or "broker", a person exempted from licensing pursuant to subdivision (8) of this subsection, who performs the activities described in subdivisions (17) and (32) of this subsection;

(16) "Loan brokerage agreement", a written agreement in which a broker agrees to do either of the following:

(a) Obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or

(b) Consider making a residential mortgage loan to the borrower;

(17) "Loan brokering", "mortgage brokering", or "mortgage brokerage service", the act of helping to obtain for an investor or from an investor for a borrower, a loan secured by residential real estate situated in Missouri or assisting an investor or a borrower in obtaining a loan secured by residential real estate in return for consideration;

(18) "Making a residential mortgage loan" or "funding a residential mortgage loan", for compensation or gain, either, directly or indirectly, advancing funds or making a commitment to an applicant for a residential mortgage loan;

(19) "Mortgage banker", a mortgage loan company which is subject to licensing, supervision, or annual audit requirements by the Federal National Mortgage Association (FNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or the United States Veterans Administration (VA), or the United States Department of Housing and Urban Development (HUD), or a successor of any of the foregoing agencies or entities, as an approved lender, loan correspondent, seller, or servicer;

(20) "Mortgage loan" or "residential mortgage loan", a loan to, or for the benefit of, any natural person made primarily for personal, family or household use, including a reverse mortgage loan, primarily secured by either a mortgage or reverse mortgage on residential real property or certificates of stock or other evidence of ownership interests in, and proprietary leases from, corporations or partnerships formed for the purpose of cooperative ownership of residential real property;

(21) "Net worth", as provided in section 443.859;

(22) "Originating", the advertising, soliciting, taking applications, processing, closing, or issuing of commitments for, and funding of, residential mortgage loans;

(23) "Party to a residential mortgage financing transaction", a borrower, lender or loan broker in a residential mortgage financing transaction;

(24) "Payments", payment of all, or any part of, the following: principal, interest and escrow reserves for taxes, insurance and other related reserves and reimbursement for lender advances;

(25) "Person", any individual, firm, partnership, corporation, company or association and the legal successors thereof;

(26) "Personal residence address", a street address, but shall not include a post office box number;

(27) "Purchasing", the purchase of conventional or government-insured mortgage loans secured by residential real estate from either the lender or from the secondary market;

(28) "Residential mortgage board", the residential mortgage board created in section 443.816;

(29) "Residential mortgage financing transaction", the negotiation, acquisition, sale or arrangement for, or the offer to negotiate, acquire, sell or arrange for, a residential mortgage loan or residential mortgage loan commitment;

(30) "Residential mortgage loan commitment", a written conditional agreement to finance a residential mortgage loan;

(31) "Residential real property" or "residential real estate", real property located in this state improved by a one-family to four-family dwelling;

(32) "Servicing", the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder or for a licensee's own account, of payments, interests, principal and trust items such as hazard insurance and taxes on a residential mortgage

loan and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing;

(33) "Soliciting, processing, placing or negotiating a residential mortgage loan", for compensation or gain, either, directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, and including a closing in the name of a broker;

(34) "Ultimate equitable owner", a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies or other entities or devices, or any combination thereof.

2. The director may define by rule any terms used in sections 443.800 to 443.893 for efficient and clear administration.

620.010. DEPARTMENT OF ECONOMIC DEVELOPMENT CREATED — DIVISIONS — AGENCIES — BOARDS AND COMMISSIONS — PERSONNEL — POWERS AND DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The office of director of the department of business and administration, chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the department of economic development. The department of business and administration is hereby abolished.

3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are transferred by type I transfer to the personnel division, office of administration.

4. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers[, and the state banking board, chapter 361, RSMo, and others, and the savings and loan commission, chapter 369, RSMo, and others, are transferred by type II transfers] to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

5. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

6. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

7. [There is hereby created a "Division of Credit Unions" in the department of economic development, to be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. All the powers, duties and functions vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are transferred to the division of credit unions of the department of economic development, by a type II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the director of the division of credit unions shall be set by the director of the department within the limits of the appropriations therefor. The director of the division shall assume all the duties and functions of the state supervisor of credit unions and the commissioner of finance only where the director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

8. The powers, duties and functions vested in the division of finance, chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department of economic development. There shall be a director of the division who shall be nominated by the department director and appointed by the governor with the advice and consent of the senate.

9. All the powers, duties and functions vested in the director of the division of savings and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other provision of law are transferred to the division of finance of the department of economic development by a type I transfer. The position of the director of the division of savings and loan supervision is hereby abolished. The director of the division of finance shall assume all the duties and functions of the director of the division of savings and loan supervision as provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law. The division of savings and loan is hereby abolished. The powers of the savings and loan commission are hereby limited to hearing appeals from decisions of the director of the division of finance approving or denying applications to incorporate savings and loan associations or to establish branches of savings and loan associations and approving regulations pertaining to savings and loan associations. Any appeals shall be held in accordance with section 369.319, RSMo.

10. On and after August 28, 1990, the status of the division is modified under a specific type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of the division is modified from that of a division transferred to the department of economic development pursuant to a type II transfer, as provided for in this section, to that of an agency possessing the characteristics of a division transferred pursuant to a type III transfer; provided, however, that the division will remain within the department of economic development. The division of insurance shall be assigned to the department of economic development as a type III division, and the director of the department of economic development shall have no supervision, authority or control over the actions or decisions of the director of the division. All authority, records, property, personnel, powers, duties, functions, matter pending and all other pertinent vestiges pertaining thereto shall be retained by the division except as modified by this section. If the division of insurance becomes a department by operation of a constitutional amendment, the department of economic development shall continue until December 31, 1991, to provide at least the same assistance as was provided in previous fiscal years for personnel, data processing support and other benefits from appropriations.

11.] All the powers, duties and functions of the commerce and industrial development division and the industrial development commission, chapters 184 and 255, RSMo, and others, not otherwise transferred, are transferred by type I transfer to the department of economic development, and the industrial development commission is abolished. All powers, duties and functions of the division of commerce and industrial development and the division of community development are transferred by a type I transfer to the department of economic development, and the division of commerce and industrial development and the division of community development are abolished.

[12.] 8. All the powers, duties and functions vested in the tourism commission, chapter 258, RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

[13.] 9. All the powers, duties and functions of the department of community affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

[14. (1) There is hereby established a "Division of Professional Registration" assigned to the department of economic development as a type III division, headed by a director appointed by the governor with the advice and consent of the senate.

(2) The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall issue the original license or certificate.

(3) The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

(4) The director of the division shall establish a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

(5) For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subdivision (4) of this subsection. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of

accounting and budgeting established by the director of the division as provided in subdivision (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the appropriation from the professional registration fees fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the professional registration fees fund for the preceding fiscal year.

(6) The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

(7) All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department of economic development are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(8) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. All clerical and other staff services relating to the issuance and renewal of licenses of the individual boards and commissions are abolished. All clerical and other staff services pertaining to collecting and accounting for moneys and to financial management relative to the issuance and renewal of licenses of the individual boards and commissions are abolished. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of economic development. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

(6) Each board or commission shall receive complaints concerning its licensees' business or professional practices. Each board or commission shall establish by rule a procedure for the handling of such complaints prior to the filing of formal complaints before the administrative hearing commission. The rule shall provide, at a minimum, for the logging of each complaint received, the recording of the licensee's name, the name of the complaining party, the date of the complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall provide for informing the complaining party of the progress of the investigation, the dismissal of the charges or the filing of a complaint before the administrative hearing commission.

16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo, and others, are transferred by type I transfer to the division of professional registration. The athletic commission is abolished.

17.] 10. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

[18.] **11.** The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

[19.] **12.** All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

[20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.] **13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

620.1063. WITHDRAWAL FROM PROGRAM, EFFECT — WITHDRAWAL OF FUNDS — EXAMINATION OF ACCOUNTS AUTHORIZED. — 1. A participating financial institution which withdraws from the program may not recover any set-aside contributions which have been made to a loss reserve account. If a program loan loss reserve account continuously exceeds the outstanding balance of the institution's enrolled loans for twenty-four consecutive months, the department may withdraw such excess to reduce the program loss reserve account to an amount equal to one hundred percent of such outstanding balance. Any funds withdrawn pursuant to this subsection shall be placed in the Missouri capital access program fund.

2. The division of finance of the department of [economic development] **insurance, financial institutions and professional registration** is authorized to examine all program loss reserve accounts maintained by financial institutions. No financial institution may participate in the program unless such financial institution agrees to allow the division of finance to conduct such examinations.

700.010. DEFINITIONS. — As used in sections 700.010 to 700.500, for the purpose of sections 700.010 to 700.500, the following terms mean:

(1) "Authorized representative", any person, firm or corporation, or employee thereof, approved or hired by the commission to perform inspection services;

(2) "Code", the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized agencies or organizations;

- (3) "Commission", the public service commission;
- (4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more **used homes or one or more new** manufactured homes, or **one or more new** modular units in any consecutive twelve-month period;
- (5) **"Installer", an individual who is licensed by the commission to install manufactured homes under sections 700.650 to 700.692;**
- (6) "Manufactured home", a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner;
- [(6)] (7) "Manufacturer", any person who manufactures manufactured homes, or modular units, including persons who engage in importing manufactured homes, or modular units for resale;
- [(7)] (8) "Modular unit", a transportable building unit designed to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational or industrial purposes. This definition shall not apply to structures under six hundred fifty square feet used temporarily and exclusively for construction site office purposes;
- [(8)] (9) "New", being sold or offered for sale to the first purchaser for purposes other than resale;
- [(9)] (10) "Person", an individual, partnership, corporation or other legal entity;
- [(10)] (11) "Premises", a lot, plot, or parcel of land including the buildings, structures, and manufactured homes thereon;
- [(11)] (12) "Recreational park trailer", a recreational park trailer as defined in the American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers. A recreational park trailer is not a recreational vehicle;
- [(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the American National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles;
- [(13)] (14) "Seal", a device, label or insignia issued by the public service commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home, or modular unit to evidence compliance with the code;
- [(14)] (15) "Setup", the operations performed at the occupancy site which renders a manufactured home or modular unit fit for habitation, which operations include, but are not limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units.

700.041. MANUFACTURED HOUSING CONSUMER RECOVERY FUND ESTABLISHED, USE OF MONEYS. — 1. There is hereby established a fund in the state treasury to be known as the "Manufactured Housing Consumer Recovery Fund" for the purpose of paying consumer claims under procedures the commission may promulgate by rule. The public service commission shall administer the manufactured housing consumer recovery fund and all moneys in the fund shall be used solely as prescribed in this section. Any interest earned from the investment of moneys in the fund shall be credited to the fund.

2. Claims approved by the commission under law may be paid from the fund subject to appropriation. No claims shall be considered by the commission until all other legal remedies have been exhausted. The commission shall establish an advisory committee to assist with the evaluation of all claims filed by consumers. The committee members shall be volunteers and serve without compensation.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the manufactured housing consumer recovery fund shall not be transferred to the credit of the general revenue fund at the end of the biennium; however, the total amount in the manufactured housing consumer recovery fund shall not exceed thirty-two percent of the amount of the annual appropriation of the manufactured housing fund from the preceding fiscal year. Moneys in the manufactured housing consumer recovery fund may be transferred back to the manufactured housing fund by appropriation.

700.045. CERTAIN ACTS DECLARED MISDEMEANORS. — It shall be a misdemeanor:

(1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any manufactured home or modular unit after January 1, 1977, unless there is in effect a registration with the commission;

(2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit or used modular unit used for educational purposes manufactured after January 1, 1974, which does not bear a seal as required by sections 700.010 to 700.115;

(3) To affix a seal or cause a seal to be affixed to any manufactured home or modular unit which does not comply with the code;

(4) To alter a manufactured home or modular unit in a manner prohibited by the provisions of sections 700.010 to 700.115;

(5) To fail to correct within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission a code violation in a new manufactured home or new modular unit or used modular unit used for educational purposes owned, manufactured or sold if the same is manufactured after January 1, 1974. **Reasonable and necessary extensions may be granted by the commission;** or

(6) To interfere with, obstruct, or hinder any authorized representative of the commission in the performance of his or her duties.

700.056. DEALER TO PROVIDE BUYER CERTAIN INFORMATION. — Every dealer of a new manufactured home offered for sale in this state shall at the time of sale provide the purchaser with a bill of sale **or the purchase agreement** containing at least the following: The total price of the unit, **serial number if available, if not, the manufacturer name and model number of the unit**, and its contents, **any waivers**, a list of all furniture and appliances in the manufactured home, any other costs which will be assessed to the purchaser **by the dealer** such as transportation, handling, or such other costs, and the sales tax payable for such manufactured home.

700.065. MANUFACTURED HOMES TO BE ANCHORED. — All **new** manufactured homes located in this state shall be anchored and tied down in accordance with the standards promulgated by the commission pursuant to the provisions of sections 700.010 to 700.115 **and 700.650 to 700.692.**

700.090. MANUFACTURERS AND DEALERS TO REGISTER — COMMISSION TO ISSUE CERTIFICATE, WHEN — REGISTRATION TO BE RENEWED, WHEN, FEE — RENEWALS MAY BE STAGGERED. — 1. Every manufacturer or dealer [of manufactured homes] who sells or offers for sale, on consignment or otherwise, a manufactured home or modular unit from or in the state of Missouri shall register [each location] with the commission **each place of business at which the manufacturer or dealer sells or offers for sale a manufactured home or modular unit.**

2. The commission shall issue a certificate of registration to a manufacturer who:

(1) Completes and files with the commission an application for registration which contains the following information:

(a) The name of the manufacturer;

(b) The address of the manufacturer and addresses of each factory owned or operated by the manufacturer, if different from the address of the manufacturer;

(c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, and proof of the filing of all franchise and sales tax forms required by Missouri law;

(d) If not a corporation, the name and address of the managing person or persons responsible for overall operation of the manufacturer;

(2) Files with the commission an initial registration fee of seven hundred fifty dollars in the form of a cashier's check or money order made payable to the state of Missouri.

3. The commission shall issue a certificate of registration to a dealer who:

(1) Completes and files with the commission an application for registration which contains the following information:

(a) The name of the dealer;

(b) The business address of the dealer and addresses of each separate facility owned and operated by the dealer from which manufactured homes or modular units are offered for sale if different from the business address of the dealer;

(c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, proof of the filing of all franchise and sales tax forms required by Missouri law;

(d) If not a corporation, the name and address of the managing person or persons responsible for the overall operations of the manufacturer;

(2) Files with the commission an initial registration fee of two hundred dollars in the form of a cashier's check or money order made payable to the state of Missouri;

(3) Files with the commission proof of compliance with the provisions of section 301.280, RSMo.

4. The registration of any manufacturer or dealer shall be effective for a period of one year and shall be renewed by the commission upon receipt by it from the registered dealer of a renewal fee of seven hundred fifty dollars for manufacturers and two hundred dollars for dealers and a form provided by the commission upon which shall be placed any changes from the information requested on the initial registration form.

5. The commission may stagger the renewal of certificates of registration to provide for more equal distribution over the twelve months of the number of registration renewals.

700.095. REGISTRATION AND RENEWAL REQUIREMENTS, APPLICATION CONTENTS — FEE. — 1. Every dealer shall, on or before January fifteenth of each year, make application for registration or renewal and shall be required to maintain a bona fide established place of business and maintain a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading, or exchanging of manufactured homes or modular units where the public may contact the owner or operator at any reasonable time and where the books, records, files, and other matter required and necessary to conduct the business shall be kept and maintained.

2. The application shall contain the business address, not a post-office box address, and telephone number of the place where the books, records, files, and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours.

3. Each application shall contain such additional information as may be required by the commission to enable it to determine whether the applicant is a bona fide dealer in fact and is of good moral character.

4. Upon the payment of a registration or renewal fee of two hundred dollars, there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.

700.096. MONTHLY REPORTS REQUIRED — INSPECTION OF CERTAIN RECORDS AUTHORIZED — LAW ENFORCEMENT OFFICIAL DEFINED. — 1. Each person registered as a dealer under the provisions of sections 700.010 to 700.115 shall file monthly reports with the commission, and such reports shall be in the form and manner and contain the information required by the commission by rules promulgated under chapter 536, RSMo, and shall permit an employee of the commission or any law enforcement official to inspect during normal business hours any of the following documents which are in his or her possession or under his or her control:

- (1) Any manufacturer's invoice, certificate of origin, statement of origin, or title to any manufactured home or modular unit;
- (2) Any application for title to any manufactured home;
- (3) Any affidavit provided under chapter 301, RSMo, or chapter 407, RSMo;
- (4) Any assignment of title to any manufactured home;
- (5) Any disclosure statement or other document required by the laws of the United States or any other state.

2. For purposes of this section, the term "law enforcement official" means any of the following:

- (1) The attorney general, or any person designated by him or her to make such an inspection;
- (2) Any prosecuting attorney or any person designated by a prosecuting attorney to make such an inspection;
- (3) Any member of the highway patrol;
- (4) Any sheriff or deputy sheriff;
- (5) Any peace officer certified under chapter 590, RSMO, acting in his or her official capacity.

700.097. REGISTRATION NOT REQUIRED, WHEN. — No insurance company, finance company, bank, or trust company shall be required to register with the commission in order to sell any manufactured home or modular unit repossessed or purchased by the company on the basis of total destruction or theft thereof when the sale of the manufactured home or modular unit is in conformance with applicable title and registration laws of this state.

700.098. SANCTIONING OF REGISTRATION, WHEN. — 1. The commission may refuse to register an applicant as a dealer, or may suspend the registration of an existing dealer from one day to thirty days, or revoke the registration of a dealer after a written notice and a hearing when the commission is satisfied that the applicant or dealer has failed to comply with the provisions set out in sections 700.010 to 700.115. Notification of unfavorable action by the commission on any application for registration or renewal of registration shall be accompanied by a notice informing the recipient that the decision of the director may be appealed as provided in chapter 386, RSMo.

2. It shall be unlawful for any person to hold forth or act as a dealer who is not currently registered as a dealer by the commission as required by sections 700.010 to 700.115.

700.100. REFUSAL TO RENEW, GROUNDS, NOTIFICATION TO APPLICANT, CONTENTS — COMPLAINTS MAY BE CONSIDERED. — 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of [section 700.090 or this section] sections 700.010 to 700.115. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of

registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

- (1) If required, failure to comply with the provisions of section 301.280, RSMo;
- (2) Failing to be in compliance with the provisions of section 700.090;
- (3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;
- (4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;
- (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);
- (6) As a dealer, failing to arrange for the proper initial setup of any new manufactured home or modular unit sold from or in the state of Missouri, [unless] **except as allowed under subsection 5 of section 700.656**; the dealer [receives] **shall receive** a written waiver of that service from the purchaser or his or her authorized agent;
- (7) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his being sold any manufactured home or modular unit;
- (8) Requiring any person to arrange financing or utilize the services of any particular financing service as a condition to his being sold any manufactured home or modular unit; provided, however, the registered manufacturer or dealer may reserve the right to establish reasonable conditions for the approval of any financing source;
- (9) Engaging in conduct in violation of section 700.045;
- (10) Failing to comply with the provisions of section 301.210, RSMo;
- (11) Failing to pay all necessary fees and assessments authorized pursuant to sections 700.010 to 700.115.

4. The commission may order that any suspension, revocation, or probation ordered under subsection 3 of this section shall apply to all manufacturer's or dealer's registrations that are held by the same manufacturer or dealer or that are owned or controlled by the same person or persons if a continued and consistent pattern of the violations have been identified by the commission to be present with each licensee under the same control or ownership.

700.115. VIOLATION OF SECTIONS 700.010 TO 700.115 CONSTITUTES VIOLATION OF SECTION 407.020, RSMO— VIOLATION OF CHAPTER, PENALTIES— RULES.— 1. Except as otherwise provided in subsections 2 and 3 of this section, a violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the provisions of section 407.020, RSMo. In addition to the authority vested in the attorney general to enforce the provisions of that section, he may petition the court and the court may enter an order revoking the registration certificate of the defendant or defendants issued pursuant to the provisions of section 700.090.

2. Notwithstanding any provisions of subsection 1 of this section to the contrary, whoever violates any provision of this chapter shall be liable to the state of Missouri for a civil penalty in an amount which shall not exceed one thousand dollars for each such violation. **If, after a hearing, the commission finds that the person has violated any provision of this chapter, it may direct its general counsel to enforce the provisions of this section by filing a petition in circuit court for such civil penalties.** Each violation of this chapter shall constitute a separate violation with respect to each manufactured home or **modular unit** or with respect to each failure or refusal to allow or perform an act required by this chapter; except that, the

maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

3. Any individual or director, officer, or agent of a corporation who knowingly and willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

700.525. DEFINITIONS. — As used in sections 700.525 to 700.541, the following terms mean:

- (1) "Abandoned", a physical absence from the property, and either:
 - (a) Failure by a renter of real property to pay any required rent for fifteen consecutive days, along with the discontinuation of utility service to the rented property for such period; or
 - (b) Indication of or notice of abandonment of real property rented from a landlord;
- (2) "Manufactured home", a factory-built structure as defined in subdivision [(5)] **(6)** or [(7)] **(8)** of section 700.010.

700.650. CITATION — DEFINITIONS. — 1. Sections 700.650 to 700.692 shall be known and may be cited as the "Manufactured Home Installation Act".

2. For the purposes of sections 700.650 to 700.692, the following terms shall mean:

- (1) "Applicant", a person who applies to the commission for a license or limited-use license to install manufactured homes;
- (2) "Commission", the Missouri public service commission;
- (3) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more **used homes or one or more new** manufactured homes, **or one or more new modular units** in any consecutive twelve-month period;
- (4) "Installation", work undertaken at the place of occupancy to ensure the proper initial setup of a manufactured home which shall include the joining of all sections of the home, installation of stabilization, support, and leveling systems, assembly of multiple or expanded units, and installation of applicable utility hookups and anchoring systems that render the home fit for habitation;
- (5) "Installation standards", reasonable specifications for the installation of a manufactured home;
- (6) "Installer", an individual who is licensed by the commission to install manufactured homes, pursuant to sections 700.650 to [700.680] **700.692**;
- (7) "Manufactured home", a manufactured home as that term is defined in subdivision [(5)] **(6)** of section 700.010;
- (8) "Manufacturer", any person who manufactures manufactured homes, including persons who engage in importing manufactured homes for resale; and
- (9) "Person", an individual, partnership, corporation, or other legal entity.

[620.105. DISCIPLINARY PROCEEDINGS, EVENTS OCCURRING PRIOR TO SEPTEMBER 28, 1981, EFFECT. — The provisions of this act relating to disciplinary proceedings against any person licensed or regulated under the provisions of chapter 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345 or 346, RSMo, do not apply for any circumstance occurring prior to September 28, 1981, or to the construction and application of any defense in a disciplinary proceeding for such circumstances. All disciplinary proceedings for circumstances occurring prior to September 28, 1981, shall be conducted and determined according to the provisions of law existing at the time of the occurrence of the circumstances involved in the proceeding in the same manner as if this act had not been enacted, any other provision of law to the contrary notwithstanding.]

[620.106. FUNDING OF LICENSING ACTIVITIES AND OTHER DIVISION DUTIES. — Effective August 28, 1999, no new licensing activity or other statutory requirements assigned to the division of professional registration shall become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as required and the initial rules filed, if appropriate, have become effective. The director of the division of professional registration shall have the authority to borrow funds from any agency within the division to commence operations upon appropriation for such purpose. This authority shall cease at such time that a sufficient fund has been established by the agency to fund its operations and repay the amount borrowed.]

[620.111. CONFIDENTIALITY OF COMPLAINTS, INVESTIGATION OR REPORTS BEFORE REVIEW BY APPROPRIATE DIVISION — DISCLOSURE, WHEN. — 1. Contrary provisions of the law notwithstanding, no complaint, investigatory report or information received from any source must be disclosed prior to its review by the appropriate division.

2. At its discretion an agency may disclose complaints, completed investigatory reports and information obtained from state administrative and law enforcement agencies to a licensee or license applicant in order to further an investigation or to facilitate settlement negotiations.

3. Information obtained from a federal administrative or law enforcement agency shall be disclosed only after the agency has obtained written consent to the disclosure from the federal administrative or law enforcement agency.

4. At its discretion an agency may disclose complaints and investigatory reports in the course of a voluntary interstate exchange of information, or in the course of any litigation concerning a licensee or license applicant, or pursuant to a lawful request, or to other state or federal administrative or law enforcement agencies.

5. Except as disclosure is specifically provided above and in section 610.021, RSMo, deliberations, votes or minutes of closed proceedings of agencies shall not be subject to disclosure or discovery.]

[620.120. GOVERNOR'S APPOINTMENTS — AFFIRMATIVE ACTION REQUIRED — DISCRIMINATION PROHIBITED. — When making appointments to the boards governed by chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340 and 346, RSMo, the governor shall take affirmative action to appoint women and members of minority groups. In addition, the governor shall not discriminate against or in favor of any person on the basis of race, sex, religion, national origin, ethnic background, or language.]

[620.125. RULES AND REGULATIONS, OCCUPATIONS AND PROFESSIONS, PROCEDURE. — No rule or portion of a rule promulgated under the authority of chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[620.127. ALL LICENSE, PERMIT OR CERTIFICATE APPLICATIONS SHALL CONTAIN THE APPLICANT'S SOCIAL SECURITY NUMBER — EXCEPTIONS. — Notwithstanding any provision of law to the contrary, every application for a license, certificate, registration, or permit, or renewal of a license, certificate, registration, or permit issued in this state shall contain the Social Security number of the applicant. This provision shall not apply to an original application for a license, certificate, registration, or permit submitted by a citizen of a foreign country who has never been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country applying for licensure with the division of professional registration shall be required to submit his or her visa or passport identification number in lieu of the Social Security number.]

[620.130. ORIENTATION PROGRAMS FOR APPOINTEES TO BOARDS OR COMMISSIONS. —

An orientation program for appointees to all boards or commissions in the division of professional registration shall be prepared under the direction of the director of the department of economic development, which shall acquaint new appointees with their duties and provide available information on subject matters of concern to the board or commission to which each public member has been appointed.]

[620.132. PUBLIC MEMBERS, STATE BOARDS, FORFEITURE OF MEMBERSHIP, WHEN — REPORT TO GENERAL PUBLIC, WHEN. —

1. Any public member authorized under the provisions of sections 326.160, RSMo, 327.031, RSMo, 328.030, RSMo, 329.190, RSMo, 330.110, RSMo, 331.090, RSMo, 332.021, RSMo, 333.151, RSMo, 334.120, RSMo, 335.021, RSMo, 336.130, RSMo, 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.120, RSMo, and 346.120, RSMo, who misses three consecutive regularly scheduled meetings of the board or council on which he serves shall forfeit his membership on that board or council. A new public member shall be appointed to the respective board or council by the governor with the advice and consent of the senate.

2. Each public member authorized under the provisions of law cited in subsection 1 of this section shall, at the conclusion of each meeting of his respective board or council, make a report on that meeting to at least one major newspaper and one major radio station which serves the city or town in which the meeting occurred.]

[620.135. FELONY NOT TO BE SOLE GROUNDS FOR DENIAL OF LICENSE. — Except as otherwise specifically provided by law, no license for any occupation or profession shall be denied solely on the grounds that an applicant has been previously convicted of a felony.]

[620.140. FEES — COLLECTION AND DISPOSITION. — 1. All fees charged by each board assigned to the division of professional registration shall be collected by that division and promptly transmitted to the department of revenue for deposit in the state treasury, credited to the proper account as provided by law.

2. The division and its component agencies shall permit any licensee to submit payment for fees established by rule in the form of personal check, money order, or cashier's check. All checks or money orders shall be made payable to the appropriate board. Any check or financial instrument which is returned to the division or one of its agencies due to insufficient funds, a closed account, or for other circumstances in which the check or financial instrument is not honored may subject an individual to additional costs, substantial penalties, or other actions by the division or one of its agencies. In such cases involving renewal of licenses, the renewal license may be withheld, and if issued, is not valid until the appropriate fee and any additional costs are collected. The division may require the payment of collection costs or other expenses. The affected board may establish penalty fees by rule and may suspend or revoke a license if such behavior is repetitive or the licensee fails to pay required penalty fees.

3. License renewal fees are generally nonrefundable. Overpayments or other incorrect fees may be refundable. The division shall establish a refund reserve through the appropriation to the professional registration fees fund.

4. Notwithstanding any other provision of law to the contrary, no board, commission or any other registration, licensing or certifying agency of the division of professional registration shall be required to collect or distribute any fee which is required for administering any test to qualify for a license, registration or certificate, if any portion of the fee is to be remitted to a private testing service.]

[620.145. DIVISION TO MAINTAIN REGISTRY OF LICENSEES — BOARDS MAY PUBLISH, PROCEDURE. — The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit or certificate issued by that

board. The registry shall contain the name, Social Security number and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the registrant's Social Security number, shall be available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the division of child support enforcement. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be charged to the board. An official copy of any such publication shall be filed with the director of the department of economic development.]

[620.146. DESTRUCTION OF RECORDS AND DOCUMENTS, WHEN — DEFINITION OF RECORDS AND DOCUMENTS. — 1. Notwithstanding other provisions of law, the director of the division of professional registration may destroy records and documents of the division or the boards in the division at any time if such records and documents have been photographed, microphotographed, electronically generated, electronically recorded, photostatted, reproduced on film or other process capable of producing a clear, accurate and permanent copy of the original. Such film or reproducing material shall be of durable material and the device used to reproduce the records, reports, returns and other related documents on film or material shall be such as to accurately reproduce and perpetuate the original records and documents in all details.

2. The reproductions so made may be used as permanent records of the original. When microfilm or a similar reproduction is used as a permanent record by the director of revenue, one copy shall be stored in a fireproof vault and other copies may be made for use by any person entitled thereto. All reproductions shall retain the same confidentiality as is provided in the law regarding the original record.

3. Such photostatic copy, photograph, microphotograph, electronically generated, electronically recorded or other process copy shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy of any records or documents made from such photostatic copy, photograph, microphotograph, electronically generated, electronically recorded or other process copy shall, for all purposes be deemed to be a transcript, exemplification or certified copy of the original and shall be admissible in evidence in all courts or administrative agencies. No document shall be admissible pursuant to this section unless the offeror shall comply with section 490.692, RSMo, when applicable.

4. "Records and documents" include, but are not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, deposited or filed with the division of professional registration or any of the boards in the division.]

[620.148. FEES, COLLECTION OF, CONTRACTS WITH THIRD PARTIES, WHEN. — Notwithstanding any other law to the contrary, the director of the division of professional registration is authorized to contract with third parties to collect, account for and deposit fees on behalf of the division and licensing agencies within the division.]

[620.149. PROBATIONARY LICENSEES, ISSUED, WHEN — COMPLAINT FILED FOR REFUSAL TO ISSUE LICENSE, PROCEDURE. — 1. Whenever a board within the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative

hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621, RSMo. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.]

[620.150. CLASSIFICATION FOR INACTIVE LICENSES. — There shall be established in each board within the division of professional registration, including the division itself when empowered with licensing authority, which was on August 28, 1998, required or authorized to revoke a license for failure to submit an application for renewal, failure to provide information required for renewal or nonpayment of the required renewal fee, a classification for a licensee who, desires to remove himself or herself from participating in the licensing system of the board or division. This classification shall be distinguished from revocation of a license and from surrender of a license pursuant to an agreement between the board or division and the licensee filed with and approved by the administrative hearing commission. This classification shall not be available to a licensee during the time there is an investigation of the licensee or the licensee's practices or during the pendency of a disciplinary complaint filed with the administrative hearing commission. Each board within the division or the division when empowered with licensing authority shall establish by rule qualifications for such classification and procedures for a licensee to request an inactive license as provided in this section. Notwithstanding any other law to the contrary, no board within the division or the division shall be required to revoke a license when the licensee qualifies for the classification authorized by this section, as provided by rule. An inactive license authorized by this section shall be subject to the same requirements for reinstatement or restoration as a lapsed, expired or revoked license due to failure to renew the license. This section shall not affect those boards which are otherwise authorized to classify a license as inactive.]

[620.151. CONTROLLED SUBSTANCES, TESTING POSITIVE, EFFECT OF. — For the purpose of determining whether cause for discipline or denial exists under the statutes of any board, commission or committee within the division of professional registration, any licensee, registrant, permittee or applicant that test positive for a controlled substance, as defined in chapter 195, RSMo, is presumed to have unlawfully possessed the controlled substance in violation of the drug laws or rules and regulations of this state, any other state or the federal government unless he or she has a valid prescription for the controlled substance. The burden of proof that

the controlled substance was not unlawfully possessed in violation of the drug laws or rules and regulations of this state, any other state or the federal government is upon the licensee, registrant, permittee or applicant.]

[620.153. ADDITIONAL DISCIPLINE AUTHORIZED, WHEN. — Any board, commission or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.]

[620.154. DISCIPLINARY PROCEEDINGS — STATUTE OF LIMITATIONS. — 1. Except as provided in this section, no disciplinary proceeding against any person or entity licensed, registered or certified to practice a profession within the department of economic development, division of professional registration shall be initiated unless such action is commenced within three years of the date upon which the licensing, registering or certifying agency received notice of an alleged violation of an applicable statute or regulation.

2. For the purpose of this section, notice shall be limited to:

- (1) A written complaint;
- (2) Notice of final disposition of a malpractice claim, including exhaustion of all extraordinary remedies and appeals;
- (3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction based upon a criminal statute of this state, any other state or the federal government;
- (4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary action by a hospital, state licensing, registering or certifying agency, or an agency of the federal government.

3. For the purposes of this section, an action is commenced when a complaint is filed by the agency with the administrative hearing commission, any other appropriate agency or in a court; or when a complaint is filed by the agency's legal counsel with the agency in respect to an automatic revocation or a probation violation.

4. Disciplinary proceedings based upon repeated negligence shall be exempt from all limitations set forth in this section.

5. Disciplinary proceedings based upon a complaint involving sexual misconduct shall be exempt from all limitations set forth in this section.

6. Any time limitation provided in this section shall be tolled:

- (1) During any time the accused licensee, registrant or certificant is practicing exclusively outside the state of Missouri or residing outside the state of Missouri and not practicing in Missouri;
- (2) As to an individual complainant, during the time when such complainant is less than eighteen years of age;
- (3) During any time the accused licensee, registrant or certificant maintains legal action against the agency; or
- (4) When a settlement agreement is offered to the accused licensee, registrant or certificant, in an attempt to settle such disciplinary matter without formal proceeding pursuant to section 621.045, RSMo, until the accused licensee, registrant or certificant rejects or accepts the settlement agreement.

7. The licensing agency may, in its discretion, toll any time limitation when the accused licensee, registrant or certificant enters into and participates in a treatment program for chemical dependency or mental impairment.

8. This section shall become effective January 1, 1998. The above statute of limitations shall not apply to any notice received by the agency prior to January 1, 1998.]

[700.070. PURCHASER TO ANCHOR MANUFACTURED HOME, WHEN. — Effective November 27, 1973, all purchasers of manufactured homes shall, within thirty days from the date of occupancy, anchor and secure the manufactured home in accordance with the standards promulgated by the commission pursuant to the provisions of sections 700.010 to 700.115.]

[700.450. DEFINITIONS. — As used in sections 700.450 to 700.470, the following terms shall mean:

- (1) "Commission", the public service commission;
- (2) "Dealer", any person, including, but not limited to, real estate brokers and salespersons, other than a manufacturer, who sells or offers for sale four or more manufactured homes in any consecutive twelve-month period;
- (3) "Manufactured home", a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner;
- (4) "Manufacturer", any person who manufactures manufactured homes, including persons who engage in importing manufactured homes for resale;
- (5) "Person", any individual, partnership, corporation or other legal entity.]

[700.455. DEALERS REGISTRATION, DUE WHEN — APPLICATION, CONTENTS — FEE — CERTIFICATE FORM. — 1. Every dealer shall, on or before January fifteenth of each year, instead of registering each manufactured home dealt in, make a verified application, upon a blank for such purpose to be furnished by the commission, for a distinctive number for all the manufactured homes dealt in or controlled by such dealer. The application shall contain, but need not be limited to:

(1) When the applicant is a partnership, the name and address of each partner, or, when the applicant is a corporation, the names of the principal officers of the corporation and the state in which it is incorporated. The application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer;

(2) A bona fide established place of business shall be required for every dealer. A bona fide established place of business for any dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of manufactured homes, where the public may contact the owner or operator at any reasonable time and where the books, records, files and other matters required and necessary to conduct the business shall be kept and maintained.

2. The application shall contain the business address, not a post-office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours.

3. Each application shall contain such additional information as may be required by the commission to enable it to determine whether the applicant is a bona fide dealer in fact and is of good moral character.

4. On the payment of a registration fee of fifty dollars there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.]

[700.460. DEALERS, MONTHLY REPORTS TO COMMISSION, CONTENTS — INSPECTIONS, WHEN, BY WHOM — LAW ENFORCEMENT OFFICIAL, DEFINED. — 1. Each person registered as a dealer pursuant to the provisions of sections 700.450 to 700.470 shall file monthly reports with the commission, which reports shall be in the form and manner and contain the information required by the commission by rules promulgated pursuant to chapter 536, RSMo, and shall permit an employee of the commission or any law enforcement official to inspect, during normal business hours, any of the following documents which are in his possession or under his custody or control:

- (1) Any title to any manufactured home;
- (2) Any application for title to any manufactured home;
- (3) Any affidavit provided pursuant to chapter 301 or 407, RSMo;
- (4) Any assignment of title to any manufactured home;
- (5) Any disclosure statement or other document required by the laws of the United States or any other state.

2. For purposes of this section, the term "law enforcement official" shall mean any of the following:

- (1) Attorney general, or any person designated by him to make such an inspection;
- (2) Any prosecuting attorney or any person designated by a prosecuting attorney to make such an inspection;
- (3) Any member of the highway patrol;
- (4) Any sheriff or deputy sheriff;
- (5) Any peace officer certified pursuant to chapter 590, RSMo, acting in his official capacity.]

[700.465. REGISTRATION NOT REQUIRED FOR CERTAIN SALES OF HOMES. — No insurance company, finance company, bank or trust company shall be required to register with the commission in order to sell any manufactured home repossessed or purchased by the company on the basis of total destruction or theft thereof when the sale of the manufactured home is in conformance with applicable title and registration laws of this state.]

[700.470. REFUSAL, SUSPENSION OR REVOCATION OF REGISTRATION — WHEN, PROCEDURE — OPERATION BY UNREGISTERED DEALER UNLAWFUL. — 1. The commission may refuse to register an applicant as a dealer, or may suspend the registration of an existing dealer from one day to thirty days, or revoke the registration of a dealer, after a written notice and a hearing when he is satisfied that the applicant or dealer has failed to comply with the provisions set out in sections 700.450 to 700.470. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the director may be appealed as provided in chapter 536, RSMo.

2. It shall be unlawful for any person to hold forth or act as a dealer who is not currently registered as a dealer by the commission as required by sections 700.450 to 700.470.]

Approved July 10, 2008

SB 801 [SB 801]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases the maximum amount of compensation which the Kansas City Board of Police Commissioners may pay officers

AN ACT to repeal sections 84.480 and 84.510, RSMo, and to enact in lieu thereof two new sections relating to certain police officers' compensation.

SECTION

A. Enacting clause.

84.480. Chief of police — appointment — qualifications — compensation (Kansas City).

84.510. Police officers and officials — appointment — compensation (Kansas City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 84.480 and 84.510, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 84.480 and 84.510, to read as follows:

84.480. CHIEF OF POLICE — APPOINTMENT — QUALIFICATIONS — COMPENSATION (KANSAS CITY). — The board of police commissioners shall appoint a chief of police who shall be the chief police administrative and law enforcement officer of such cities. The chief of police shall be chosen by the board solely on the basis of his or her executive and administrative qualifications and his or her demonstrated knowledge of police science and administration with special reference to his or her actual experience in law enforcement leadership and the provisions of section 84.420. At the time of the appointment, the chief shall not be more than sixty years of age, shall have had at least five years' executive experience in a governmental police agency and shall be certified by a surgeon or physician to be in a good physical condition, and shall be a citizen of the United States and shall either be or become a citizen of the state of Missouri and resident of the city in which he or she is appointed as chief of police. In order to secure and retain the highest type of police leadership within the departments of such cities, the chief shall receive a salary of not less than eighty thousand two hundred eleven dollars, nor more than one hundred [fifty-one thousand two hundred ninety-six] **seventy-two thousand four hundred seventy-eight** dollars per annum.

84.510. POLICE OFFICERS AND OFFICIALS — APPOINTMENT — COMPENSATION (KANSAS CITY). — 1. For the purpose of operation of the police department herein created, the chief of police, with the approval of the board, shall appoint such number of police department employees, including police officers and civilian employees as the chief of police from time to time deems necessary.

2. The base annual compensation of police officers shall be as follows for the several ranks:

(1) Lieutenant colonels, not to exceed five in number, at not less than seventy-one thousand nine hundred sixty-nine dollars, nor more than one hundred [six thousand seven hundred sixty-four] **twenty-one thousand seven hundred sixteen** dollars per annum each;

(2) Majors at not less than sixty-four thousand six hundred seventy-one dollars, nor more than [ninety-seven thousand four hundred four] **one hundred eleven thousand forty-eight** dollars per annum each;

(3) Captains at not less than fifty-nine thousand five hundred thirty-nine dollars, nor more than [eighty-eight thousand eight hundred sixty] **one hundred one thousand three hundred four** dollars per annum each;

(4) Sergeants at not less than forty-eight thousand six hundred fifty-nine dollars, nor more than [seventy-one thousand seven hundred forty eight] **eighty-eight thousand two hundred sixty** dollars per annum each;

(5) Master patrol officers at not less than fifty-six thousand three hundred four dollars, nor more than [sixty-seven thousand five hundred sixty-three] **seventy-nine thousand seven hundred twenty-eight** dollars per annum each;

(6) Master detectives at not less than fifty-six thousand three hundred four dollars, nor more than [sixty-seven thousand five hundred sixty-three] **seventy-nine thousand seven hundred twenty-eight** dollars per annum each;

(7) Detectives, investigators, and police officers at not less than twenty-six thousand six hundred forty-three dollars, nor more than [sixty-three thousand six hundred forty-eight] **seventy-five thousand one hundred eight** dollars per annum each.

3. The board of police commissioners has the authority by resolution to effect a comprehensive pay schedule program to provide for step increases with separate pay rates within each rank, in the above-specified salary ranges from police officers through chief of police.

4. Officers assigned to wear civilian clothes in the performance of their regular duties may receive an additional one hundred fifty dollars per month clothing allowance. Uniformed officers may receive seventy-five dollars per month uniform maintenance allowance.

5. The chief of police, subject to the approval of the board, shall establish the total regular working hours for all police department employees, and the board has the power, upon recommendation of the chief, to pay additional compensation for all hours of service rendered in excess of the established regular working period, but the rate of overtime compensation shall not exceed one and one-half times the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given nor deductions made from payments for overtime for the purpose of retirement benefits.

6. The board of police commissioners, by majority affirmative vote, including the mayor, has the authority by resolution to authorize incentive pay in addition to the base compensation as provided for in subsection 2 of this section, to be paid police officers of any rank who they determine are assigned duties which require an extraordinary degree of skill, technical knowledge and ability, or which are highly demanding or unusual. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

7. The board of police commissioners may effect programs to provide additional compensation for successful completion of academic work at an accredited college or university. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

8. The additional pay increments provided in subsections 6 and 7 of this section shall not be considered a part of the base compensation of police officers of any rank and shall not exceed ten percent of what the officer would otherwise be entitled to pursuant to subsections 2 and 3 of this section.

9. Not more than twenty-five percent of the officers in any rank who are receiving the maximum rate of pay authorized by subsections 2 and 3 of this section may receive the additional pay increments authorized by subsections 6 and 7 of this section at any given time. However, any officer receiving a pay increment provided pursuant to the provisions of subsections 6 and 7 of this section shall not be deprived of such pay increment as a result of the limitations of this subsection.

Approved June 17, 2008

SB 806 [SCS SB 806]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires all government buildings to fly the U.S. and Missouri flags at half-staff when any Missouri resident is killed in combat

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to display of flags on government buildings.

SECTION

- A. Enacting clause.
 9.135. United States flag and state flag to be flown at half-staff, when a Missouri resident in the military dies in the line of duty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.135, to read as follows:

9.135. UNITED STATES FLAG AND STATE FLAG TO BE FLOWN AT HALF-STAFF, WHEN A MISSOURI RESIDENT IN THE MILITARY DIES IN THE LINE OF DUTY. — **The United States flag and the Missouri state flag shall be flown at half-staff on all government buildings for one full day whenever a Missouri resident, who was a resident at the time of enlistment in military service or at time of death, is killed in the line of duty during service in the military forces of this state or the United States. The Missouri veterans commission shall make ongoing reasonable efforts to determine if any residents have been killed in the line of duty, and shall notify the governor of any such death. The governor, who shall determine the day on which the resident shall be honored, shall then notify the office of administration.**

Approved June 23, 2008

SB 818 [HCS SS SCS SBs 818 & 795]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions relating to stalking and harassment

AN ACT to repeal sections 160.261, 565.090, and 565.225, RSMo, and to enact in lieu thereof three new sections relating to crimes of harassment, with penalty provisions.

SECTION

- A. Enacting clause.
 160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
 565.090. Harassment.
 565.225. Crime of stalking — definitions — penalties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.261, 565.090, and 565.225, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.261, 565.090, and 565.225, to read as follows:

160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION

— NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to teachers and other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following [felonies] **crimes**, or any act which if committed by an adult would be one of the following [felonies] **crimes**:

- (1) First degree murder under section 565.020, RSMo;
- (2) Second degree murder under section 565.021, RSMo;
- (3) Kidnapping under section 565.110, RSMo;
- (4) First degree assault under section 565.050, RSMo;
- (5) Forcible rape under section 566.030, RSMo;
- (6) Forcible sodomy under section 566.060, RSMo;
- (7) Burglary in the first degree under section 569.160, RSMo;
- (8) Burglary in the second degree under section 569.170, RSMo;
- (9) Robbery in the first degree under section 569.020, RSMo;
- (10) Distribution of drugs under section 195.211, RSMo;
- (11) Distribution of drugs to a minor under section 195.212, RSMo;
- (12) Arson in the first degree under section 569.040, RSMo;
- (13) Voluntary manslaughter under section 565.023, RSMo;
- (14) Involuntary manslaughter under section 565.024, RSMo;
- (15) Second degree assault under section 565.060, RSMo;
- (16) Sexual assault under section 566.040, RSMo;
- (17) Felonious restraint under section 565.120, RSMo;
- (18) Property damage in the first degree under section 569.100, RSMo;
- (19) The possession of a weapon under chapter 571, RSMo;
- (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; [or]
- (23) Sexual abuse pursuant to section 566.100, RSMo;
- (24) Harassment under section 565.090, RSMo; or
- (25) Stalking under section 565.225, RSMo;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any public school in the school district where such student attended school unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student;

(3) Such student is in an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policy of discipline developed by each board under this section, or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. Acts of violence as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any certificated school personnel pursuant to a written policy of discipline established by the board of education of the school district. Upon receipt of any reports of child abuse by the division of family services pursuant to sections 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district, the division of family services shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the division of family services and take no further action. In all matters referred back to the division of family services, the division of family services shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's

designee. The investigation shall begin no later than forty-eight hours after notification from the division of family services is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the division of family services. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

(2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

11. The findings and conclusions of the school board shall be sent to the division of family services. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the division of family services' central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the division of family services unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

12. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

13. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

565.090. HARASSMENT. — 1. A person commits the crime of harassment if [for the purpose of frightening or disturbing another person.] he **or she**:

(1) **Knowingly** communicates [in writing or by telephone] a threat to commit any felony **to another person and in so doing, frightens, intimidates, or causes emotional distress to such other person;** or

(2) [Makes a telephone call or communicates in writing and] **When communicating with another person, knowingly** uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or

(3) [Makes] **Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making** a telephone call [anonymously] or any electronic communication; or

(4) **Knowingly communicates with another person who is, or who purports to be, seventeen years of age or younger and in so doing and without good cause recklessly frightens, intimidates, or causes emotional distress to such other person; or**

(5) **Knowingly** makes repeated [telephone calls] **unwanted communication to another person; or**

(6) **Without good cause engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, cause such person to be frightened, intimidated, or emotionally distressed, and such person's response to the act is one of a person of average sensibilities considering the age of such person.**

2. Harassment is a class A misdemeanor **unless:**

(1) **Committed by a person twenty-one years of age or older against a person seventeen years of age or younger; or**

(2) **The person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this subsection.**

In such cases, harassment shall be a class D felony.

3. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.

565.225. CRIME OF STALKING — DEFINITIONS — PENALTIES. — 1. As used in this section, the following terms shall mean:

(1) "Course of conduct", a pattern of conduct composed of [a series of] **two or more** acts, which may include [electronic or other communications] **communication by any means**, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct". Such constitutionally protected activity includes picketing or other organized protests;

(2) "Credible threat", a threat [made] **communicated** with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety, **or the safety of his or her family, or household members or domestic animals or livestock as defined in section 276.606, RSMo, kept at such person's residence or on such person's property.** The threat must be against the life of, or a threat to cause physical injury to, [a] **or the kidnapping of, the person [and may include a threat communicated to the targeted person in writing, including electronic communications, by telephone, or by the posting of a site or message that is accessible via computer], the person's family, or the person's household members or domestic animals or livestock as defined in section 276.606, RSMo, kept at such person's residence or on such person's property;**

(3) "Harasses", to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person [to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person] **under the circumstances to be frightened, intimidated, or emotionally distressed.**

2. [Any] A person [who] **commits the crime of stalking if he or she** purposely [and repeatedly], **through his or her course of conduct**, harasses or follows with the intent of harassing another person [commits the crime of stalking].

3. [Any] A person [who] **commits the crime of aggravated stalking if he or she** purposely [and repeatedly], **through his or her course of conduct**, harasses or follows with the intent of harassing [or harasses] another person, and:

(1) Makes a credible threat [with the intent to place that person in reasonable fear of death or serious physical injury, commits the crime of aggravated stalking]; or

(2) **At least one of the acts constituting the course of conduct is in violation of an order of protection and the person has received actual notice of such order; or**

(3) **At least one of the actions constituting the course of conduct is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; or**

(4) **At any time during the course of conduct, the other person is seventeen years of age or younger and the person harassing the other person is twenty-one years of age or older; or**

(5) **He or she has previously pleaded guilty to or been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim.**

4. The crime of stalking shall be a class A misdemeanor [for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim] **unless the person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section, in which case, stalking shall be a class D felony.**

5. The crime of aggravated stalking shall be a class D felony [for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim] **unless the person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section, aggravated stalking shall be a class C felony.**

6. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

7. **This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.**

Approved June 30, 2008

SB 830 [HCS SCS SB 830]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Limits the tuition that may be charged by a higher education institution to certain combat veterans

AN ACT to amend chapter 173, RSMo, by adding thereto one new section relating to combat veterans.

SECTION

A. Enacting clause.

173.900. Combat veteran defined — tuition limit for combat veterans, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 173, RSMo, is amended by adding thereto one new section, to be known as section 173.900, to read as follows:

173.900. COMBAT VETERAN DEFINED — TUITION LIMIT FOR COMBAT VETERANS, PROCEDURE. — 1. This act shall be known and may be cited as the "Missouri Returning Heroes' Education Act".

2. For the purpose of this section, the term "combat veteran" shall mean a person who served in armed combat in the military after September 11, 2001, and to whom the following criteria shall apply:

- (1) The veteran was a Missouri resident when first entering the military; and
- (2) The veteran was discharged from military service under honorable conditions.

3. All public institutions of higher education that receive any state funds appropriated by the general assembly shall limit the amount of tuition such institutions charge to combat veterans to fifty dollars per credit hour, as long as the veteran achieves and maintains a cumulative grade point average of at least two and one-half on a four point scale, or its equivalent. The tuition limitation shall only be applicable if the combat veteran is enrolled in a program leading to a certificate, or an associate or baccalaureate degree. The period during which a combat veteran is eligible for a tuition limitation under this section shall expire at the end of the ten-year period beginning on the date of such veteran's last discharge from service.

4. The coordinating board for higher education shall ensure that all applicable institutions of higher education in this state comply with the provisions of this section and may promulgate rules for the efficient implementation of this section.

5. If a combat veteran is eligible to receive financial assistance under any other federal or state student aid program, public or private, the full amount of such aid shall be reported to the board by the institution and the veteran. The tuition limitation under this section shall be provided after all other federal and state aid for which the veteran is eligible has been applied, and no combat veteran shall receive more than the actual cost of attendance when the limitation is combined with other aid made available to such veteran.

6. Each institution may report to the board the amount of tuition waived in the previous fiscal year under the provisions of this act. This information may be included in each institution's request for appropriations to the board for the following year. The board may include this information in its appropriations recommendations to the governor and the general assembly. The general assembly may reimburse institutions for the cost of the waiver for the previous year as part of the operating budget. Nothing in this subsection shall be construed to deny a combat veteran a tuition limitation if the general assembly does not appropriate money for reimbursement to an institution.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

Approved June 23, 2008

SB 839 [SB 839]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies adjustment to funds payable resulting from transfer of title to real property for certain school districts

AN ACT to repeal section 177.088, RSMo, and to enact in lieu thereof one new section relating to the transfer of title to real property for school districts.

SECTION

A. Enacting clause.

177.088. Facilities and equipment may be obtained by agreements with not-for-profit corporation, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 177.088, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 177.088, to read as follows:

177.088. FACILITIES AND EQUIPMENT MAY BE OBTAINED BY AGREEMENTS WITH NOT-FOR-PROFIT CORPORATION, PROCEDURE. — 1. As used in this section, the following terms shall mean:

(1) "Board", the board of education, board of trustees, board of regents, or board of governors of an educational institution;

(2) "Educational institution", any school district, including all junior college districts, and any state college or university organized under chapter 174, RSMo.

2. The board of any educational institution may enter into agreements as authorized in this section with a not-for-profit corporation formed under the general not for profit corporation law of Missouri, chapter 355, RSMo, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation and financing of sites, buildings, facilities, furnishings and equipment for the use of the educational institution for educational purposes.

3. The board may on such terms as it shall approve:

(1) Lease from the corporation sites, buildings, facilities, furnishings and equipment which the corporation has acquired or constructed; or

(2) Notwithstanding the provisions of this chapter or any other provision of law to the contrary, sell or lease at fair market value, which may be determined by appraisal, to the corporation any existing sites owned by the educational institution, together with any existing buildings and facilities thereon, in order for the corporation to acquire, construct, improve, extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and then lease back or purchase such sites, buildings and facilities from the corporation; provided that upon selling or leasing the sites, buildings or facilities, the corporation agrees to enter into a lease for not more than one year but with not more than twenty successive options by the educational institution to renew the lease under the same conditions; and provided further that the corporation agrees to convey or sell the sites, buildings or facilities, including any improvements, extensions, renovations, furnishings or equipment, back to the educational institution with clear title at the end of the period of successive one-year options or at any time bonds, notes or other obligations issued by the corporation to pay for the improvements, extensions, renovations, furnishings or equipment have been paid and discharged.

4. Any consideration, promissory note or deed of trust which an educational institution receives for selling or leasing property to a not-for-profit corporation pursuant to this section shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon shall be commingled with any other funds of the educational institutions. At such time as the title or deed for property acquired, constructed, improved, extended, repaired, remodeled or renovated

under this section is conveyed to the educational institution, the consideration shall be returned to the corporation.

5. The board may make rental payments to the corporation under such leases out of its general funds or out of any other available funds, provided that in no event shall the educational institution become indebted in an amount exceeding in any year the income and revenue of the educational institution for such year plus any unencumbered balances from previous years.

6. Any bonds, notes and other obligations issued by a corporation to pay for the acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites, buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental thereof to the educational institution. Such bonds, notes and other obligations issued by a corporation shall not be a debt of the educational institution and the educational institution shall not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out of any funds or properties other than those acquired for the purposes of this section, and such bonds, notes and obligations shall not constitute an indebtedness of the educational institution within the meaning of any constitutional or statutory debt limitation or restriction.

7. The interest on such bonds, notes and other obligations of the corporation and the income therefrom shall be exempt from taxation by the state and its political subdivisions, except for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment owned by a corporation in connection with any project pursuant to this section shall be exempt from taxation.

8. The board may make all other contracts or agreements with the corporation necessary or convenient in connection with any project pursuant to this section. The corporation shall comply with sections 290.210 to 290.340, RSMo.

9. Notice that the board is considering a project pursuant to this section shall be given by publication in a newspaper published within the county in which all or a part of the educational institution is located which has general circulation within the area of the educational institution, once a week for two consecutive weeks, the last publication to be at least seven days prior to the date of the meeting of the board at which such project will be considered and acted upon.

10. Provisions of other law to the contrary notwithstanding, the board may refinance any lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of payment on any lease with the corporation under this section for sites, buildings, facilities, furnishings or equipment which the corporation has acquired or constructed, but such refinance shall not extend the date of maturity of any obligation, and the refinancing obligation shall not exceed the amount necessary to pay or provide for the payment of the principal of the outstanding obligations to be refinanced, together with the interest accrued thereon to the date of maturity or redemption of such obligations and any premium which may be due under the terms of such obligations and any amounts necessary for the payments of costs and expenses related to issuing such refunding obligations and to fund a capital projects reserve fund for the obligations.

11. Provisions of other law to the contrary notwithstanding, payments made from any source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the transfer of the title of real property to the school district, other than those payments made from the capital projects fund, shall be deducted as an adjustment to the funds payable to the district pursuant to section 163.031, RSMo, beginning in the year following the transfer of title to the district, as determined by the department of elementary and secondary education. **No district with modular buildings leased in fiscal year 2004, with the lease payments made from the incidental fund and that initiates the transfer of title to the district after fiscal year 2007, shall have any adjustment to the funds payable to the district under section 163.031, RSMo, as a result of the transfer of title.**

Approved July 10, 2008

SB 850 [SCS SB 850]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the board of optometry to give notice of its meetings

AN ACT to repeal section 336.140, RSMo, and to enact in lieu thereof one new section relating to the board of optometry.

SECTION

A. Enacting clause.

336.140. Board meetings — compensation of board members — fund created, use, transferred to general revenue, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 336.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 336.140, to read as follows:

336.140. BOARD MEETINGS — COMPENSATION OF BOARD MEMBERS — FUND CREATED, USE, TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. The board shall hold meetings for the examination of applicants for registration and the transaction of other business pertaining to its duties at least once in six months. **Such regular meetings require at least ten days' public notice of the time and place of such meetings. The president or vice president of the board shall have the authority to call additional meetings of the board without the ten day notice when such is deemed necessary, provided that sufficient notice is given to the other board members and to the general public under chapter 610, RSMo.** Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his **or her** expenses necessarily incurred in the discharge of his **or her** official duties. All fees payable under this chapter shall be collected by the division of professional registration, which shall transmit the same to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "Optometry Fund". All costs and expenses incurred in administering the provisions of this chapter shall be appropriated and paid from this fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

Approved July 10, 2008

SB 863 [HCS SB 863]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows married taxpayers filing joint returns to deduct a portion of contributions to the Missouri Higher Education Savings Program from income tax

AN ACT to repeal sections 166.425 and 166.435, RSMo, and to enact in lieu thereof two new sections relating to the income tax deduction for contributions to the Missouri higher education savings program.

SECTION

A. Enacting clause.

166.425. Board to invest funds, use of funds — not deemed income, when.

166.435. State tax exemption.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 166.425 and 166.435, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 166.425 and 166.435, to read as follows:

166.425. BOARD TO INVEST FUNDS, USE OF FUNDS — NOT DEEMED INCOME, WHEN. — All money paid by a participant in connection with participation agreements shall be deposited as received and shall be promptly invested by the board. Contributions and earnings thereon accumulated on behalf of participants in the savings program may be used, as provided in the participation agreement, for qualified higher education expenses. **Such contributions and earnings shall not be considered income for purposes of determining a participant's eligibility for financial assistance under any state student aid program.**

166.435. STATE TAX EXEMPTION. — 1. Notwithstanding any law to the contrary, the assets of the savings program held by the board [and], the assets of any deposit program authorized in section 166.500, and **the assets of any qualified tuition savings program established pursuant to Section 529 of the Internal Revenue Code** and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the savings program [or], deposit, **or other qualified tuition savings programs established under Section 529 of the Internal Revenue Code** shall not be subject to state income tax imposed pursuant to chapter 143, RSMo, and shall be eligible for any benefits provided in accordance with Section 529 of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the savings program established pursuant to sections 166.400 to 166.455, [and] the deposit program established pursuant to sections 166.500 to 166.529, and **other qualified tuition savings programs established under Section 529 of the Internal Revenue Code**, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the savings program held by the board [and], the deposit program, **and any qualified tuition savings program established under Section 529 of the Internal Revenue Code** up to and including eight thousand dollars [for the participant] **per participating taxpayer, and up to sixteen thousand dollars for married individuals filing a joint tax return**, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121, RSMo.

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified higher education expenses or are not held

for the minimum length of time established by the appropriate Missouri [state authority] **board**, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, [1999] **2008**, and the provisions of this section with regard to sections 166.500 to 166.529 shall apply to tax years beginning on or after January 1, 2004.

Approved July 10, 2008

SB 896 [SB 896]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the methods in which certain special road districts may form, expand or dissolve within fourth class counties

AN ACT to repeal sections 233.010 and 233.155, RSMo, and to enact in lieu thereof five new sections relating to incorporated road districts.

SECTION

- A. Enacting clause.
- 233.010. Organization of special road districts — not applicable to what counties — special road district exemption.
- 233.155. Extension of special district boundaries — procedure.
- 233.177. Election to establish road district, procedure — ballot language.
- 233.297. Dissolution of a special road district, procedure — ballot language — land assigned to common road district, when.
- 233.317. Expansion or extension of a road district, procedure — ballot language.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 233.010 and 233.155, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 233.010, 233.155, 233.177, 233.297, and 233.317, to read as follows:

233.010. ORGANIZATION OF SPECIAL ROAD DISTRICTS — NOT APPLICABLE TO WHAT COUNTIES — SPECIAL ROAD DISTRICT EXEMPTION. — **1.** Territory not exceeding eight miles square, wherein is located any city, town or village [containing less than one hundred thousand inhabitants], may be organized as herein set forth into a special road district; provided, however, the provisions of this section shall not apply to counties under township organization or to class one counties except any first class county without a charter form of government which contains all or part of a city with a population greater than four hundred thousand and any first class county with a population of over one hundred thousand inhabitants which does not adjoin another first class county and which contains a campus of the University of Missouri; however, any county of the second class which had within its boundaries, prior to January 1, 1989, a special road district already organized and existing under this section and which second class county becomes a first class county without a charter form of government under the laws of this state, such change in classification shall in no way affect the existing status, nor the right to exist, nor the legality of the organization nor the right to remain organized of any such prior existing special road district nor shall it in any way affect, alter or change the right of said special road district so existing prior to the change in classification of the second class county to function and to lawfully continue to function under this section and section 233.165, in the same manner as

such special road district functioned prior to the change in classification of the second class county. **However, no city, town, or village containing more than one hundred thousand inhabitants may be included within the territory of a special road district organized under sections 233.010 to 233.165.**

2. The eight square mile territorial restriction provided for in subsection 1 of this section shall not apply to any special road district organized under the provisions of sections 233.010 to 233.165 within a county of the fourth classification.

233.155. EXTENSION OF SPECIAL DISTRICT BOUNDARIES — PROCEDURE. — 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less [then] **than the lesser of thirty-five voters or fifty percent** of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment[, and until their successors shall be appointed and qualified]. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment.

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended

so that after such extension it shall not be more than seventeen miles square. **The seventeen mile square restriction shall not apply to any special road district extended within a county of the fourth classification.**

233.177. ELECTION TO ESTABLISH ROAD DISTRICT, PROCEDURE — BALLOT LANGUAGE.

— 1. In lieu of the mode of establishment set forth in section 233.175, a road district organized under sections 233.170 to 233.315 may be established by election. The election procedures established by the provisions of this section shall only apply to proposed special road districts within a county of the fourth classification.

2. Whenever fifty voters, who are voters of any such proposed special road district, shall file a petition with the county commission, asking the commission to submit sections 233.170 to 233.315 to a vote of the people of such proposed road district for their adoption, the county commission shall make an order of record that sections 233.170 to 233.315, describing the same by its title and the date of its approval, be submitted to the voters of such proposed road district at an election.

3. The question shall be submitted in substantially the following form:

"Shall the Road District be established?"

4. If the majority of the votes cast for and against the adoption of sections 233.170 to 233.315 be for its adoption, the commission shall declare the result of the vote thereon by an order of record, and shall make an order of record declaring sections 233.170 to 233.315 to be the law in such special road district, the same to take effect and be in force from and after a day to be named in such order within ten days.

233.297. DISSOLUTION OF A SPECIAL ROAD DISTRICT, PROCEDURE — BALLOT LANGUAGE — LAND ASSIGNED TO COMMON ROAD DISTRICT, WHEN. — 1. In lieu of the modes of dissolution set forth in section 233.290 or in section 233.295, a special road district may be dissolved by election. The dissolution procedure established under this section shall only apply to the dissolution of special road districts in counties of the fourth classification.

2. Upon presentation of a petition signed by fifty registered voters of the special road district, the county commission shall make an order that the dissolution of the special road district order that the question of dissolving the special road district shall be submitted to a vote of the people of the special road district. However no such petition may be presented until the expiration of four years from the date of establishment of the special road district or from the date of the last election seeking to expand or dissolve the special road district.

3. The question shall be submitted in substantially the following form:

"Shall the Special Road District be dissolved?"

4. If a majority of the votes cast are in favor of the dissolution, the district shall be disincorporated and the operation of the law shall cease in that district.

5. The dissolution of the road district shall not affect the validity of any bonds issued by the road district and all levies related to such bonds shall remain in effect until such bonds are paid. Likewise, the dissolution of the road district shall not affect the validity of any special assessments or taxes levied against particular parcels or the validity of any unpaid taxes previously levied against a particular parcel.

6. Upon dissolution of a special road district pursuant to this section, the land therein shall be assigned to a new or existing common road district pursuant to chapter 231, RSMo. If after payment of all debts of the special road district, there are funds left in the possession of the special road district, such funds shall be allocated proportionately to the common road districts to which the land within the former special road district were assigned based on the acreage assigned to each common road district. To the extent that funds are paid subsequent to such original allocation, other than funds connected with

bond obligations under subsection 5 of this section, based on obligations assigned to particular parcels or property, such funds shall be allocated to the common road district in which such parcels or property is located.

233.317. EXPANSION OR EXTENSION OF A ROAD DISTRICT, PROCEDURE — BALLOT LANGUAGE. — 1. In addition to any other mechanism established by law for the expansion or extension of a road district established under sections 233.170 to 233.315, such road district may be extended by election. The provisions of this section shall only apply to the extension of special road districts in counties of the fourth classification.

2. Upon presentation of a petition signed by not less than thirty-five registered voters in the old district and by the lesser of thirty-five registered voters or fifty percent of the registered voters in the area to be added to the road district to the county commission, the county commission shall make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

3. The question shall be submitted in substantially the following form:

"Shall the Special Road District be extended?"

4. If the majority of the votes cast for and against the expansion of the road district be for its expansion, the commission shall declare the result of the vote thereon by an order of record, and shall make an order of record declaring that the road district shall be expanded to include the territory covered by the petition. If the majority of the votes be against the expansion, the territory shall remain as it was prior to the vote. Any order pursuant to this section shall take effect ten days after its entry.

Approved July 10, 2008

SB 907 [HCS SCS SB 907]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions pertaining to petroleum fuel storage tanks

AN ACT to repeal sections 49.292, 260.1003, 319.109, 319.129, 319.131, 319.133, and 414.072, RSMo, and to enact in lieu thereof ten new sections relating to the regulation of motor fuel tanks and equipment.

SECTION

A. Enacting clause.

49.292. Rejection of transfer of real property by donation or dedication authorized, when — proof and acknowledgment required.

260.1003. Definitions.

319.109. Releases and corrective actions to be reported, standards — rules authorized.

319.129. Petroleum storage tank insurance fund created — lapse into general revenue prohibited — fee paid by all owners per tank to board — state treasurer may deposit funds where, interest credited to fund — administration of fund — board of trustees created, members, meetings — expires when — continuation after expiration, when.

319.131. Owners of tanks containing petroleum products may elect to participate — advisory committee, members, duties, applications, content, standards and tests — financial responsibility — deductible — fund not liability of state — ineligible sites — tanks owned by certain school districts — damages covered, limitation — defense of third-party claims.

319.133. Annual payments by owners, amount established by rule, limitation — change of ownership, no new fee required — installment payments authorized, when — applicable rules — site assessment required, when..

- 319.136. Tank ineligible for delivery, deposit, or acceptance, when — violation, procedure — red tag to be affixed, when.
- 414.036. Financial responsibility to be maintained, when — aboveground storage tank defined — rules.
- 414.072. Measuring devices, certain fuels, inspection, when — correction or removal, when — public policy regarding devices.
- 442.558. Transfer fee covenants not to run with title to real property — lien void, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 49.292, 260.1003, 319.109, 319.129, 319.131, 319.133, and 414.072, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 49.292, 260.1003, 319.109, 319.129, 319.131, 319.133, 319.136, 414.036, 414.072, and 442.558, to read as follows:

49.292. REJECTION OF TRANSFER OF REAL PROPERTY BY DONATION OR DEDICATION AUTHORIZED, WHEN — PROOF AND ACKNOWLEDGMENT REQUIRED. — 1. Notwithstanding any other law to the contrary, the county commission of any county may reject the transfer of title of real property to the county by donation or dedication if the commission determines that such rejection is in the public interest of the county.

2. No transfer of title of real property to the county commission or any other political subdivision by donation or dedication authorized to be recorded in the office of the recorder of deeds shall be valid unless it has been proved or acknowledged. The preparer of the document relating to subsection 1 of this section shall not submit a document to the recorder of deeds for recording unless the acceptance thereof of the grantee named in the document has been proved or acknowledged. **No water or sewer line easement shall be construed as a transfer of title of real property under this subsection.**

260.1003. DEFINITIONS. — As used in sections 260.1000 to 260.1039, the following terms shall mean:

(1) "Activity and use limitations", restrictions or obligations with respect to real property created under sections 260.1000 to 260.1039;

(2) "Department", the Missouri department of natural resources or any other state or federal department that determines or approves the environmental response project under which the environmental covenant is created;

(3) "Common interest community", a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes, insurance premiums, maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community;

(4) "Environmental covenant", a servitude arising under an environmental response project that imposes activity and use limitations;

(5) "Environmental response project", a plan or work performed for environmental remediation of real property and conducted:

(a) Under a federal or state program governing environmental remediation of real property, including but not limited to the Missouri hazardous waste management law as specified in this chapter;

(b) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of the department; or

(c) Under a state voluntary cleanup program authorized in the Missouri hazardous waste management law as specified in this chapter. **"Environmental response project" shall not include plans or work performed for environmental remediation of releases from aboveground storage tanks or underground storage tanks as defined in section 319.100, RSMo;**

(6) "Holder", the grantee of an environmental covenant as specified in section 260.1006;

(7) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, department, or instrumentality, or any other legal or commercial entity;

(8) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(9) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

319.109. RELEASES AND CORRECTIVE ACTIONS TO BE REPORTED, STANDARDS — RULES AUTHORIZED. — The department shall establish requirements for the reporting of any releases and corrective action taken in response to a release from an underground storage tank, including the specific quantity of a regulated substance, which if released, requires reporting and corrective action. In so doing, the department shall use risk-based corrective standards which take into account the level of risk to public health and the environment associated with site-specific conditions and future land usage. The hazardous waste management commission is authorized to promulgate rules to implement this section, in accordance with section 319.137. **By February 13, 2009, the hazardous waste management commission shall propose rules to implement the provisions of this section.** To the extent there is a conflict between this section and section 644.143, RSMo, or 644.026, RSMo, this section shall prevail.

319.129. PETROLEUM STORAGE TANK INSURANCE FUND CREATED — LAPSE INTO GENERAL REVENUE PROHIBITED — FEE PAID BY ALL OWNERS PER TANK TO BOARD — STATE TREASURER MAY DEPOSIT FUNDS WHERE, INTEREST CREDITED TO FUND — ADMINISTRATION OF FUND — BOARD OF TRUSTEES CREATED, MEMBERS, MEETINGS — EXPIRES WHEN — CONTINUATION AFTER EXPIRATION, WHEN. — 1. There is hereby created a special trust fund to be known as the "Petroleum Storage Tank Insurance Fund" within the state treasury which shall be the successor to the underground storage tank insurance fund. Moneys in such special trust fund shall not be deemed to be state funds. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to general revenue at the end of each biennium.

2. The owner or operator of any underground storage tank, including the state of Missouri and its political subdivisions and public transportation systems, in service on August 28, 1989, shall submit to the department a fee of one hundred dollars per tank on or before December 31, 1989. The owner or operator of any underground storage tank who seeks to participate in the petroleum storage tank insurance fund, including the state of Missouri and its political subdivisions and public transportation systems, and whose underground storage tank is brought into service after August 28, 1998, shall transmit one hundred dollars per tank to the board with his or her initial application. Such amount shall be a one-time payment, and shall be in addition to the payment required by section 319.133. The owner or operator of any aboveground storage tank regulated by this chapter, including the state of Missouri and its political subdivisions and public transportation systems, who seeks to participate in the petroleum storage tank insurance fund, shall transmit one hundred dollars per tank to the board with his or her initial application. Such amount shall be a one-time payment and shall be in addition to the payment required by section 319.133. Moneys received pursuant to this section shall be transmitted to the director of revenue for deposit in the petroleum storage tank insurance fund.

3. The state treasurer may deposit moneys in the fund in any of the qualified depositories of the state. All such deposits shall be secured in a manner and upon the terms as are provided by law relative to state deposits. Interest earned shall be credited to the petroleum storage tank insurance fund.

4. The general administration of the fund and the responsibility for the proper operation of the fund, including all decisions relating to payments from the fund, are hereby vested in a board

of trustees. The board of trustees shall consist of the commissioner of administration or the commissioner's designee, the director of the department of natural resources or the director's designee, the director of the department of agriculture or the director's designee, and eight citizens appointed by the governor with the advice and consent of the senate. Three of the appointed members shall be owners or operators of retail petroleum storage tanks, including one tank owner or operator of greater than one hundred tanks; one tank owner or operator of less than one hundred tanks; and one aboveground storage tank owner or operator. One appointed trustee shall represent a financial lending institution, and one appointed trustee shall represent the insurance underwriting industry. One appointed trustee shall represent industrial or commercial users of petroleum. The two remaining appointed citizens shall have no petroleum-related business interest, and shall represent the nonregulated public at large. The members appointed by the governor shall serve four-year terms except that the governor shall designate two of the original appointees to be appointed for one year, two to be appointed for two years, two to be appointed for three years and two to be appointed for four years. Any vacancies occurring on the board shall be filled in the same manner as provided in this section.

5. The board shall meet in Jefferson City, Missouri, within thirty days following August 28, 1996. Thereafter, the board shall meet upon the written call of the chairman of the board or by the agreement of any six members of the board. Notice of each meeting shall be delivered to all other trustees in person or by registered mail not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

6. Six trustees shall constitute a quorum for the transaction of business, and any official action of the board shall be based on a majority vote of the trustees present.

7. The trustees shall serve without compensation but shall receive from the fund their actual and necessary expenses incurred in the performance of their duties for the board.

8. **[All] The board of trustees shall be a type III agency and shall appoint an executive director and other employees as needed, who shall be state employees and be eligible for all corresponding benefits. The executive director shall have charge of the offices, operations, records, and other employees of the board, subject to the direction of the board. Employees of the board shall receive such salaries and necessary expenses as shall be fixed by the board.**

9. Staff resources for the Missouri petroleum storage tank insurance fund [shall] **may** be provided by the department of natural resources or another state agency as otherwise specifically determined by the board. The fund shall compensate the department of natural resources or other state agency for all costs of providing staff required by this subsection. Such compensation shall be made pursuant to contracts negotiated between the board and the department of natural resources or other state agency.

[9.] **10.** In order to carry out the fiduciary management of the fund, the board may select and employ, or may contract with, persons experienced in insurance underwriting, accounting, the servicing of claims and rate making, and legal counsel to defend third-party claims, who shall serve at the board's pleasure. Invoices for such services shall be presented to the board in sufficient detail to allow a thorough review of the costs of such services.

[10.] **11.** At the first meeting of the board, the board shall elect one of its members as chairman. The chairman shall preside over meetings of the board and perform such other duties as shall be required by action of the board.

[11.] **12.** The board shall elect one of its members as vice chairman, and the vice chairman shall perform the duties of the chairman in the absence of the latter or upon the chairman's inability or refusal to act.

[12.] **13.** The board shall determine and prescribe all rules and regulations as they relate to fiduciary management of the fund, pursuant to the purposes of sections 319.100 to 319.137. In no case shall the board have oversight regarding environmental cleanup standards for petroleum storage tanks.

[13.] **14.** No trustee or staff member of the fund shall receive any gain or profit from any moneys or transactions of the fund. This shall not preclude any eligible trustee from making a claim or receiving benefits from the petroleum storage tank insurance fund as provided by sections 319.100 to 319.137.

[14.] **15.** The board may reinsure all or a portion of the fund's liability. Any insurer who sells environmental liability insurance in this state may, at the option of the board, reinsure some portion of the fund's liability.

[15.] **16.** The petroleum storage tank insurance fund shall expire on December 31, [2010, or upon revocation of federal regulation 40 CFR Parts 280 and 285, whichever occurs first] **2020**, unless extended by action of the general assembly. After December 31, [2010] **2020**, the board of trustees may continue to function for the sole purpose of completing payment of claims made prior to December 31, [2010] **2020**.

[16.] **17.** The board shall annually commission an independent financial audit of the petroleum storage tank insurance fund. The board shall biennially commission an actuarial analysis of the petroleum storage tank insurance fund. The results of the financial audit and the actuarial analysis shall be made available to the public. The board may contract with third parties to carry out the requirements of this subsection.

319.131. OWNERS OF TANKS CONTAINING PETROLEUM PRODUCTS MAY ELECT TO PARTICIPATE — ADVISORY COMMITTEE, MEMBERS, DUTIES, APPLICATIONS, CONTENT, STANDARDS AND TESTS — FINANCIAL RESPONSIBILITY — DEDUCTIBLE — FUND NOT LIABILITY OF STATE — INELIGIBLE SITES — TANKS OWNED BY CERTAIN SCHOOL DISTRICTS — DAMAGES COVERED, LIMITATION — DEFENSE OF THIRD-PARTY CLAIMS. — 1. Any owner or operator of one or more petroleum storage tanks may elect to participate in the petroleum storage tank insurance fund to [partially] meet the financial responsibility requirements of sections [319.100 to 319.137] **319.114 and 414.036, RSMo**. Subject to regulations of the board of trustees, owners or operators may elect to continue their participation in the fund subsequent to the transfer of their property to another party. Current or former refinery sites or petroleum pipeline or marine terminals are not eligible for participation in the fund.

2. The board shall establish an advisory committee which shall be composed of insurers [and], owners and operators of petroleum storage tanks, **and other interested parties**. The advisory committee established pursuant to this subsection shall report to the board. The committee shall monitor the fund and recommend statutory and administrative changes as may be necessary to assure efficient operation of the fund. The committee, in consultation with the board and the department of insurance, shall [annually] report **every two years** to the general assembly on the availability and affordability of the private insurance market as a viable method of meeting the financial responsibilities required by state and federal law in lieu of the petroleum storage tank insurance fund.

3. (1) Except as otherwise provided by this section, any person seeking to participate in the insurance fund shall submit an application to the board of trustees and shall certify that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the United States Environmental Protection Agency, except those standards and regulations pertaining to spill prevention control and counter-measure plans, and rules established by the Missouri department of natural resources and the Missouri department of agriculture. The applicant shall submit proof that the applicant has a reasonable assurance of the tank's integrity. Proof of tank integrity may include but not be limited to any one of the following: tank tightness test, electronic leak detection, monitoring wells, daily inventory reconciliation, vapor test or any other test that may be approved by the director of the department of natural resources or the director of the department of agriculture. The applicant shall submit evidence that the applicant can meet all applicable financial responsibility requirements of this section.

(2) A creditor, specifically a person who, without participating in and not otherwise primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership

primarily for the purpose of, or in connection with, securing payment or performance of a loan or to protect a security interest in or lien on the tank or the property where the tank is located, or serves as trustee or fiduciary upon transfer or receipt of the property, may be a successor in interest to a debtor pursuant to this section, provided that the creditor gives notice of the interest to the insurance fund by certified mail, return receipt requested. Part of such notice shall include a copy of the lien, including but not limited to a security agreement or a deed of trust as appropriate to the property. The term "successor in interest" as provided in this section means a creditor to the debtor who had qualified real property in the insurance fund prior to the transfer of title to the creditor, and the term is limited to access to the insurance fund. The creditor may cure any of the debtor's defaults in payments required by the insurance fund, provided the specific real property originally qualified pursuant to this section. The creditor, or the creditor's subsidiary or affiliate, who forecloses or otherwise obtains legal title to such specific real property held as collateral for loans, guarantees or other credit, and which includes the debtor's aboveground storage tanks or underground storage tanks, or both such tanks shall provide notice to the fund of any transfer of creditor to subsidiary or affiliate. Liability pursuant to sections 319.100 to 319.137 shall be confined to such creditor or such creditor's subsidiary or affiliate. A creditor shall apply for a transfer of coverage and shall present evidence indicating a lien, contractual right, or operation of law permitting such transfer, and may utilize the creditor's affiliate or subsidiary to hold legal title to the specific real property taken in satisfaction of debts. Creditors may be listed as insured or additional insured on the insurance fund, and not merely as mortgagees, and may assign or otherwise transfer the debtor's rights in the insurance fund to the creditor's affiliate or subsidiary, notwithstanding any limitations in the insurance fund on assignments or transfer of the debtor's rights.

(3) Any person participating in the fund shall annually submit an amount established pursuant to subsection 1 of section 319.133 which shall be deposited to the credit of the petroleum storage tank insurance fund.

4. Any person making a claim pursuant to this section and sections 319.129 and 319.133 shall be liable for the first ten thousand dollars of the cost of cleanup associated with a release from a petroleum storage tank without reimbursement from the fund. The petroleum storage tank insurance fund shall assume all costs, except as provided in subsection 5 of this section, which are greater than ten thousand dollars but less than one million dollars per occurrence or two million dollars aggregate per year. The liability of the petroleum storage tank insurance fund is not the liability of the state of Missouri. The provisions of sections 319.100 to 319.137 shall not be construed to broaden the liability of the state of Missouri beyond the provisions of sections 537.600 to 537.610, RSMo, nor to abolish or waive any defense which might otherwise be available to the state or to any person. The presence of existing contamination at a site where a person is seeking insurance in accordance with this section shall not affect that person's ability to participate in this program, provided the person meets all other requirements of this section. Any person who qualifies pursuant to sections 319.100 to 319.137 and who has requested approval of a project for remediation from the fund, which request has not yet been decided upon shall annually be sent a status report including an estimate of when the project may expect to be funded and other pertinent information regarding the request.

5. The fund shall provide coverage for third-party claims involving property damage or bodily injury caused by leaking petroleum storage tanks whose owner or operator is participating in the fund at the time the release occurs or is discovered. [Coverage for third-party bodily injury shall not exceed one million dollars per occurrence.] Coverage for third-party property damage **or bodily injury shall be in addition to the coverage described in subsection 4 of this section but the total liability of the petroleum storage tank insurance fund for all cleanup costs, property damage, and bodily injury shall not exceed one million dollars per occurrence or two million dollars aggregate per year.** The fund shall not compensate an owner or operator for repair of damages to property beyond that required to contain and clean up a release of a regulated substance or compensate an owner or operator or any third party for

loss or damage to other property owned or belonging to the owner or operator, or for any loss or damage of an intangible nature, including, but not limited to, loss or interruption of business, pain and suffering of any person, lost income, mental distress, loss of use of any benefit, or punitive damages.

6. The fund shall, within limits specified in this section, assume costs of third-party claims and cleanup of contamination caused by releases from petroleum storage tanks. The fund shall provide the defense of eligible third-party claims including the negotiations of any settlement.

7. Nothing contained in sections 319.100 to 319.137 shall be construed to abrogate or limit any right, remedy, causes of action, or claim by any person sustaining personal injury or property damage as a result of any release from any type of petroleum storage tank, nor shall anything contained in sections 319.100 to 319.137 be construed to abrogate or limit any liability of any person in any way responsible for any release from a petroleum storage tank or any damages for personal injury or property damages caused by such a release.

8. (1) The fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks, the owner or operator of which is participating in the fund or the owner or operator of which has made application for participation in the fund by December 31, 1997, regardless of when such release occurred, provided that those persons who have made application are ultimately accepted into the fund. Applicants shall not be eligible for fund benefits until they are accepted into the fund. This section shall not preclude the owner or operator of petroleum storage tanks coming into service after December 31, 1997, from making application to and participating in the petroleum storage tank insurance fund.

(2) Notwithstanding the provisions of section 319.100 and the provisions of subdivision (1) of this section, the fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks owned by school districts all or part of which are located in a county of the third classification without a township form of government and having a population of more than ten thousand seven hundred but less than eleven thousand inhabitants, and which make application for participation in the fund by August 28, 1999, regardless of when such release occurred. Applicants shall not be eligible for fund benefits until they are accepted into the fund, and costs incurred prior to that date shall not be eligible expenses.

9. (1) The fund shall provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to August 28, 1995. The fund shall also provide moneys for cleanup of contamination caused by releases from underground storage tanks which contained petroleum and which have been taken out of use prior to December 31, 1985, if the current owner of the real property where the tanks are located purchased such property before December 31, 1985, provided such sites are reported to the fund on or before June 30, 2000. The fund shall make no payment for expenses incurred at such sites prior to August 28, 1999. Nothing in sections 319.100 to 319.137 shall affect the validity of any underground storage tank fund insurance policy in effect on August 28, 1996.

(2) An owner or operator who submits a request as provided in this subsection is not required to bid the costs and expenses associated with professional environmental engineering services. The board may disapprove all or part of the costs and expenses associated with the environmental engineering services if the costs are excessive based upon comparable service costs or current market value of similar services. The owner or operator shall solicit bids for actual remediation and cleanup work as provided by rules of the board.

(3) After December 31, 2017, the current legal owner of the site shall be the responsible party for corrective action, pursuant to section 319.109, of any releases from underground storage tanks described in this subsection, provided the creditor, who is a successor in interest as provided in subdivision (2) of subsection 3 of this section, is subject to no greater or lesser responsibility for corrective action than such successor in interest

would have on or before December 31, 2017. Nothing in this subdivision shall in any way be construed to alter, alleviate, or modify in any manner any liabilities that the fund has to pay for in cleaning up the site.

10. (1) The fund shall provide moneys for cleanup of contamination caused by releases from aboveground storage tanks utilized for the sale of products regulated by chapter 414, RSMo, which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to July 1, 1997.

(2) After December 31, 2017, the current legal owner of the site shall be the responsible party for corrective action of any releases from aboveground storage tanks described in this subsection, provided the creditor, who is a successor in interest as provided in subdivision (2) of subsection 3 of this section, is subject to no greater or lesser responsibility for corrective action than such successor in interest would have on or before December 31, 2017. Nothing in this subdivision shall in any way be construed to alter, alleviate, or modify in any manner any liabilities that the fund has to pay for in cleaning up the site.

319.133. ANNUAL PAYMENTS BY OWNERS, AMOUNT ESTABLISHED BY RULE, LIMITATION — CHANGE OF OWNERSHIP, NO NEW FEE REQUIRED — INSTALLMENT PAYMENTS AUTHORIZED, WHEN — APPLICABLE RULES — SITE ASSESSMENT REQUIRED, WHEN.. — 1. The board shall, in consultation with the advisory committee established pursuant to subsection 2 of section 319.131, establish, by rule, the amount which each owner or operator who participates in the fund shall pay annually into the fund, but such amount shall not exceed the limits established in this section.

2. Each participant shall annually pay an amount which shall be at least one hundred dollars per year but not more than [three] **five** hundred dollars per year for any tank, as established by the board by rule.

3. No new registration fee is required for a change of ownership of a petroleum storage tank.

4. The board shall establish procedures where persons owning fifty or more petroleum storage tanks may pay any fee established pursuant to subsection 1 of this section in installments.

5. All rules applicable to the former underground storage tank insurance fund not inconsistent with the provisions of sections 319.100 to 319.137 shall apply to the petroleum storage tank insurance fund as of August 28, 1996.

6. The board may require any new applicant, who has not previously held private insurance or other form of financial responsibility for the petroleum storage tank for which application to the fund is made, to conduct a site assessment before participating in the fund. The board also may require such new applicants to pay a surcharge per year per tank from the date the tank was eligible for coverage under the fund, provided that each year's surcharge shall not exceed the surcharge that was actually in effect for that particular year.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

319.136. TANK INELIGIBLE FOR DELIVERY, DEPOSIT, OR ACCEPTANCE, WHEN — VIOLATION, PROCEDURE — RED TAG TO BE AFFIXED, WHEN. — 1. An underground storage tank shall be ineligible for delivery, deposit, or acceptance of petroleum if the underground storage tank meets one or more of the following conditions:

- (1) Required spill prevention equipment is not installed;
- (2) Required overfill protection equipment is not installed;
- (3) Required leak detection equipment is not installed; or
- (4) Required corrosion protection equipment is not installed. This subdivision shall not apply to a buried metal flexible connector.

2. Upon the discovery of a violation of this section, the department shall, within fourteen days, notify the owner or operator in writing of such violation and affix a red violation tag stating the underground storage tank is in violation and is ineligible to receive petroleum to the fill pipe of the noncompliant underground storage tank using a tamper-resistant strap or straps, fill pipe bag, or any combination thereof so the tag is visible to any person attempting to deliver petroleum to the underground storage tank.

3. Notwithstanding the provisions of subsection 1 of this section to the contrary, the department may authorize delivery, deposit, or acceptance of petroleum to an ineligible underground storage tank in the following circumstances:

- (1) In an emergency situation; or
- (2) If such activity is necessary to test or calibrate the underground storage tank or dispenser system.

In either case, the department may authorize delivery, deposit, or acceptance of petroleum to an otherwise ineligible underground storage tank for up to one hundred eighty days. If the department grants a waiver pursuant to this subdivision, no red violation tag, as required under subsection 1 of this section, shall be affixed to the fill pipe for the length of the waiver.

4. A violation of this section causes the individual tank in violation to become ineligible to receive petroleum, but shall not cause other tanks at such facility to become ineligible to receive petroleum.

5. The owner or operator shall not allow petroleum to be deposited into an underground storage tank that has a red violation tag affixed to its fill pipe.

6. No person shall deface, alter, or otherwise tamper with a red violation tag so that the information contained on the tag is not legible. Removal of a red violation tag shall only be allowed pursuant to subsection 7 of this section.

7. Upon notification by the owner or operator to the department documenting that the violation has been corrected, the department shall immediately, unless an inspection is required, provide authorization to the owner or operator to remove the red violation tag. If the department requires an inspection to determine the violation has been corrected, such inspection shall be conducted within twenty-four hours after receiving notification from the owner or operator. If the department does not conduct the inspection within twenty-four hours after receiving notification from the owner or operator, the owner or operator may remove the red violation tag and immediately place the system and underground storage tank back into operation pending the inspection. A red violation tag that has been removed by the owner or operator shall be returned to the department within five business days in a postage paid envelope provided by the department.

8. Notwithstanding the provisions of section 621.250, RSMo, to the contrary, when the department has affixed a red violation tag to make a noncompliant underground storage tank ineligible to receive petroleum, the owner or operator of that tank may, in addition to all administrative appeals and remedies, appeal the department's action to the

circuit court in the county where the tank is located within ten business days of the department's action.

414.036. FINANCIAL RESPONSIBILITY TO BE MAINTAINED, WHEN — ABOVEGROUND STORAGE TANK DEFINED — RULES. — 1. After December 31, 2010, the owner or operator of an aboveground storage tank defined in subsection 2 of this section shall maintain evidence of financial responsibility in an amount equal to or greater than one million dollars per occurrence and two million dollars annual aggregate for the costs of taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the tank.

2. For the purposes of this section, "aboveground storage tank" is defined as any one or a combination of tanks, including pipes connected thereto, used to contain an accumulation of petroleum and the volume of which, including the volume of the aboveground pipes connected thereto, is ninety percent or more above the surface of the ground, which is utilized for the sale of products regulated by this chapter. The term does not include those tanks described in paragraphs (a) to (k) of subdivision (16) of section 319.100, RSMo, nor does it include aboveground storage tanks at refineries, petroleum pipeline terminals, or marine terminals.

3. Owners and operators may meet the requirements of this section by participating in the petroleum storage tank insurance fund created in section 319.129, RSMo, or by any other method approved by the department.

4. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

414.072. MEASURING DEVICES, CERTAIN FUELS, INSPECTION, WHEN — CORRECTION OR REMOVAL, WHEN — PUBLIC POLICY REGARDING DEVICES. — 1. At least every six months, the director shall test and inspect the measuring devices used by any person selling an average of two hundred or more gallons of gasoline, gasoline-alcohol blends, diesel fuel, heating oil, kerosene, or aviation turbine fuel per month at either retail or wholesale in this state, except marine installations, which shall be tested and inspected at least once per year.

2. When the director finds that any measuring device does not correctly and accurately register and measure the monetary cost, if applicable, or the volume sold, he shall require the correction, removal, or discontinuance of the same.

3. Notwithstanding any other law or rule to the contrary, it has been and continues to be the public policy of this state to prohibit gasoline and diesel motor fuel in a retail sale transaction from being dispensed by any measuring device or equipment that is not approved by the department of agriculture or the National Type Evaluation Program (NTEP).

442.558. TRANSFER FEE COVENANTS NOT TO RUN WITH TITLE TO REAL PROPERTY — LIEN VOID, WHEN. — 1. As used in this section, the following terms shall mean:

(1) "Transfer", the sale, gift, conveyance, assignment, inheritance, or other transfer of ownership interest in real property located in this state;

(2) "Transfer fee", a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. Transfer fee shall not include the following:

(a) Any consideration payable by the grantee to the grantor for the interest in real property being transferred;

(b) Any commission payable to a licensed real estate broker for the transfer of real property under an agreement between the broker and the grantor or the grantee;

(c) Any interest, charges, fees, or other amounts payable by a borrower to a lender under a loan secured by a mortgage against real property, including but not limited to any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates, and any other consideration allowed by law and payable to the lender in connection with the loan;

(d) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including but not limited to any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease;

(e) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person;

(f) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority;

(3) "Transfer fee covenant", a declaration or covenant purporting to affect real property which requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to their successors or assigns upon a subsequent transfer of an interest in the real property.

2. A transfer fee covenant recorded in this state on or after September 1, 2008, shall not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise. Any lien purporting to secure the payment of a transfer fee under a transfer fee covenant recorded in this state on or after September 1, 2008, is void and unenforceable.

Approved July 10, 2008

SB 930 [CCS HCS SCS SBs 930 & 947]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes cap on amount of aviation generated revenue that may be deposited in state aviation trust fund and expands purposes for which moneys in the aviation trust fund may be used

AN ACT to repeal sections 144.030, 144.805, 155.010, 233.155, 238.202, 238.207, 238.210, 301.010, 301.130, 302.010, 302.060, 302.177, 302.304, 302.309, 302.341, 302.525, 302.720, 302.735, 304.015, 304.130, 304.180, 304.230, 305.230, 577.023, 577.041, 577.600, 577.602, 577.612, and 590.050, RSMo, and to enact in lieu thereof fifty-two new

sections relating to transportation, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
- 144.030. Exemptions from state and local sales and use taxes.
- 144.805. Aviation jet fuel sold to common carriers in interstate transporting or storage exempt from all sales and use tax, when — qualification, procedure — common carrier to make direct payment to revenue — tax revenues to be deposited in aviation trust fund — expires when.
- 155.010. Definitions.
- 227.102. Electronic bidding authorized, requirements and criteria — rulemaking authority.
- 227.103. Annual bid bond for construction and maintenance projects authorized — rulemaking authority.
- 227.378. State Senator Larry Gene Taylor Memorial bridge designated for Table Rock Lake Bridge on highway 39.
- 227.397. Jeff McBride Memorial highway designated for portion of Interstate 55 in Jefferson County.
- 227.400. Police Officer Robert Stanze Memorial highway designated for portion of Interstate 44 in St. Louis County.
- 233.155. Extension of special district boundaries — procedure.
- 238.202. Definitions.
- 238.207. Creation of district, procedures — district to be contiguous, size requirements — petition, contents — alternative method.
- 238.210. Hearing, how conducted — opposition to district, how filed — appeals, how.
- 301.010. Definitions.
- 301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.
- 302.010. Definitions.
- 302.060. License not to be issued to whom, exceptions — reinstatement requirements.
- 302.177. Licenses, issuance and renewal, duration, fees.
- 302.304. Notice of points — suspension or revocation of license, when, duration — reinstatement, condition, point reduction, fee — failure to maintain proof of financial responsibility, effect — point reduction prior to conviction, effect — surrender of license — reinstatement of license when drugs or alcohol involved, assignment recommendation, judicial review — fees for program — supplemental fees.
- 302.309. Return of license, when — limited driving privilege, when granted, application, when denied — judicial review of denial by director of revenue — rulemaking.
- 302.341. Moving traffic violation, failure to prepay fine or appear in court, license suspended, procedure — reinstatement when — excessive revenue from fines to be distributed to schools — definition, state highways.
- 302.525. Suspension or revocation, when effective, duration — restricted driving privilege — effect of suspension or revocation by court on charges arising out of same occurrence — revocation due to alcohol-related offenses, requirements.
- 302.720. Operation without license prohibited, exceptions — instruction permit, use, duration, fee — license, test required, contents, fee — director to promulgate rules and regulations for certification of third-party testers — certain persons prohibited from obtaining license, exceptions — third-party testers, when.
- 302.735. Application for commercial license, contents, expiration, duration, fees — new resident, application dates — falsification of information, ineligibility for license, when — nonresident commercial license issued, when.
- 304.015. Drive on right of highway — traffic lanes — signs — violations, penalties.
- 304.032. Utility vehicles, operation on highway and in streams or rivers prohibited — exceptions — passengers prohibited — violations, penalty.
- 304.130. Regulation of vehicular traffic — notice, hearings — approval — publication of notice (first class counties).
- 304.180. Regulations as to weight — axle load, tandem axle defined — idle reduction technology, increase in maximum gross weight permitted, amount — hauling livestock, total gross weight permitted.
- 304.230. Enforcement of load laws — commercial vehicle inspectors, powers.
- 304.232. Municipal law enforcement officers, state highway patrol to approve certification procedures — fees — requirements — random roadside inspections prohibited, when — rulemaking authority.
- 304.590. Travel safe zone defined — doubling of fine for violation in — signage required.
- 305.230. Aeronautics program, highways and transportation commission to administer — purposes — aviation trust fund, administration, uses — appropriation — immediate availability of funds in the event of a disaster.
- 385.400. Citation of law.
- 385.403. Definitions.
- 385.406. Applicability, exceptions.
- 385.409. Registration required — records, content — fee — notice for failure to register.
- 385.412. Vehicle protection products, no offer for sale unless warrantor ensures adequate performance.
- 385.415. Warranty reimbursement insurance policy requirements.

- 385.418. Warrant requirements.
- 385.421. Warrant to contain cancellation terms and conditions — written notice of cancellation required.
- 385.424. Prohibited use of names and terms.
- 385.427. Recordkeeping requirements.
- 385.430. Enforcement authority — administrative orders permitted.
- 385.433. Rulemaking authority.
- 385.436. Admissibility of failure to comply evidence.
- 390.021. UCR agreement — definitions — commission authority — precedence of agreement — filing of forms and registration fee-enforcement authority — authorized exemptions.
- 390.372. Motor carrier contracts, hold harmless provisions void and unenforceable — definitions.
- 577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
- 577.041. Refusal to submit to chemical test — notice, report of peace officer, contents — revocation of license, hearing — evidence, admissibility — reinstatement of licenses — substance abuse traffic offender program — assignment recommendations, judicial review — fees.
- 577.600. Court may require ignition interlock device, when, compliance — use of other vehicle — penalty.
- 577.602. Cost of interlock device may reduce amount of fine — vehicles affected — proof of compliance, when, report — maintenance cost — calibration checks.
- 577.612. Circumvention of operation — prohibited activities — penalty.
- 590.050. Continuing education requirements.
 - B. Effective date.
 - C. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 144.030, 144.805, 155.010, 233.155, 238.202, 238.207, 238.210, 301.010, 301.130, 302.010, 302.060, 302.177, 302.304, 302.309, 302.341, 302.525, 302.720, 302.735, 304.015, 304.130, 304.180, 304.230, 305.230, 577.023, 577.041, 577.600, 577.602, 577.612, and 590.050, RSMo, are repealed and fifty-two new sections enacted in lieu thereof, to be known as sections 144.030, 144.805, 155.010, 227.102, 227.103, 227.378, 227.397, 227.400, 233.155, 238.202, 238.207, 238.210, 301.010, 301.130, 302.010, 302.060, 302.177, 302.304, 302.309, 302.341, 302.525, 302.720, 302.735, 304.015, 304.032, 304.130, 304.180, 304.230, 304.232, 304.590, 305.230, 385.400, 385.403, 385.406, 385.409, 385.412, 385.415, 385.418, 385.421, 385.424, 385.427, 385.430, 385.433, 385.436, 390.021, 390.372, 577.023, 577.041, 577.600, 577.602, 577.612, and 590.050, to read as follows:

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at

retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or

more or trailers used by common carriers, as defined in section 390.020, RSMo, in the transportation of persons or property;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all

elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

- (a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility
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service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.

144.805. AVIATION JET FUEL SOLD TO COMMON CARRIERS IN INTERSTATE TRANSPORTING OR STORAGE EXEMPT FROM ALL SALES AND USE TAX, WHEN — QUALIFICATION, PROCEDURE — COMMON CARRIER TO MAKE DIRECT PAYMENT TO REVENUE — TAX REVENUES TO BE DEPOSITED IN AVIATION TRUST FUND — EXPIRES WHEN.
— 1. In addition to the exemptions granted pursuant to the provisions of section 144.030, there

shall also be specifically exempted from the provisions of sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged in the interstate air transportation of passengers and cargo, and the storage, use and consumption of such aviation jet fuel by such common carriers, if such common carrier has first paid to the state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption of such aviation jet fuel in a maximum and aggregate amount of one million five hundred thousand dollars of state sales and use taxes in such calendar year.

2. To qualify for the exemption prescribed in subsection 1 of this section, the common carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The director of revenue shall permit any such common carrier to enter into a direct-pay agreement with the department of revenue, pursuant to which such common carrier may pay directly to the department of revenue any applicable sales and use taxes on such aviation jet fuel up to the maximum aggregate amount of one million five hundred thousand dollars in each calendar year. The director of revenue shall adopt appropriate rules and regulations to implement the provisions of this section, and to permit appropriate claims for refunds of any excess sales and use taxes collected in calendar year 1993 or any subsequent year with respect to any such common carrier and aviation jet fuel.

3. The provisions of this section shall apply to all purchases and deliveries of aviation jet fuel from and after May 10, 1993.

4. All sales and use tax revenues upon aviation jet fuel received pursuant to this chapter, less the amounts specifically designated pursuant to the constitution or pursuant to section 144.701 for other purposes, shall be deposited to the credit of the aviation trust fund established pursuant to section [305.230] **155.090**, RSMo; provided however, the amount of such state sales and use tax revenues deposited to the credit of such aviation trust fund shall not exceed [six] **ten** million dollars in each calendar year.

5. The provisions of this section and section 144.807 shall expire on December 31, 2013.

155.010. DEFINITIONS. — As used in this chapter, the following terms mean:

(1) "Aircraft", any contrivance now known, or hereafter invented, used or designed for navigation of, or flight in, the air;

(2) "Airline company", any person, firm, partnership, corporation, trustee, receiver or assignee, and all other persons, whether or not in a representative capacity, undertaking to engage in the carriage of persons or cargo for hire by commercial aircraft pursuant to certificates of convenience and necessity issued by the federal Civil Aeronautics Board, or successor thereof, or any noncertificated air carrier authorized to engage in irregular and infrequent air transportation by the federal Civil Aeronautics Board, or successor thereof;

(3) "Aviation fuel", any fuel specifically compounded for use in reciprocating aircraft engines;

(4) "Commercial aircraft", aircraft fully equipped for flight and of more than [seven] **three** thousand pounds maximum certified gross take-off weight.

227.102. ELECTRONIC BIDDING AUTHORIZED, REQUIREMENTS AND CRITERIA — RULEMAKING AUTHORITY. — 1. Notwithstanding any other provision of law to the contrary, the commission is authorized to receive bids and bid bonds for any contract for construction, maintenance, repair, or improvement of any bridge or highway on the state highway system electronically via the Internet. Such electronically submitted bids and bid

bonds shall contain digital signatures and seals, and all other required bid information and certifications, in accordance with commission administrative rules, sections 432.200 to 432.295, RSMo, and with any applicable federal competitive bidding requirements. At its discretion, the commission may elect to receive both electronic and paper bids, or the commission may specify electronic bidding exclusively for any proposed contract.

2. Any electronic bidding program or service implemented by the commission and the electronic bid and bid bond vendor shall meet the following criteria, at a minimum:

(1) Each bidder must be able to transmit an electronic bid and bid bond securely and confidentially through bid encryption or other protection measures;

(2) Each bidder must receive prompt confirmation of the timely electronic filing of the bidder's bid and bid bond;

(3) Each bidder must be able to withdraw or replace the bidder's filed electronic bid and bid bond prior to the time bids are opened;

(4) Each bid filed electronically must be inaccessible or unreadable to all others except for the bidder prior to the time bids are opened;

(5) The portal for filing bids must have a mechanism to block any additional bids or modifications to bids when bids are scheduled to be opened; and

(6) Commission representatives and officials of the department of transportation must have full and immediate access to the bids and bid bonds at the time bids are designated to be opened, but not prior to that time.

3. The commission is authorized to promulgate administrative rules to administer the provisions in this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

227.103. ANNUAL BID BOND FOR CONSTRUCTION AND MAINTENANCE PROJECTS AUTHORIZED — RULEMAKING AUTHORITY. — 1. Notwithstanding any other provision of law to the contrary, the commission is authorized to accept an annual bid bond for its construction and maintenance projects. The commission shall prescribe the form and content of an annual bid bond under the provisions set forth in the Missouri standard specifications for highway construction, or its successor.

2. The commission is authorized to promulgate administrative rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

227.378. STATE SENATOR LARRY GENE TAYLOR MEMORIAL BRIDGE DESIGNATED FOR TABLE ROCK LAKE BRIDGE ON HIGHWAY 39. — The Table Rock Lake bridge on Highway 39 in the census designated place with more than one thousand three hundred but fewer than one thousand four hundred inhabitants and partially located in any county of the third classification without a township form of government and with more than

thirty-four thousand but fewer than thirty-four thousand one hundred inhabitants shall be designated the "State Senator Larry Gene Taylor Memorial Bridge".

227.397. JEFF MCBRIDE MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 55 IN JEFFERSON COUNTY. — The portion of Interstate 55 in Jefferson County from the intersection of highway M to a point one mile south shall be designated the "Jeff McBride Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.400. POLICE OFFICER ROBERT STANZE MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 44 IN ST. LOUIS COUNTY. — The portion of Interstate 44 from mile marker 280 to mile marker 282 in St. Louis County shall be designated the "Police Officer Robert Stanze Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donation.

233.155. EXTENSION OF SPECIAL DISTRICT BOUNDARIES — PROCEDURE. — 1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county commission of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county commissions of each of such counties, signed by not less than thirty-five voters in the old district and not less than fifty percent of the voters in the territory proposed to be taken into said district, asking the county commission or commissions of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district for their adoption or rejection, the county commission of such county, or if the proposed district shall include parts of more than one county, the county commissions of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district.

2. The question shall be submitted in substantially the following form:

Shall the special road district be extended?

3. If the territory of more than one county be included in said special road district, the county commission of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county commission of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county commission or county commissions in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

4. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be

appointed and qualified. Such commissioners shall be voters of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment. **In any special road district located in two counties with an additional fourth commissioner appointed by the county outside of the original district as provided in this subsection, a fifth commissioner may be appointed by the same county that appointed the fourth commissioner. Except as herein provided, a fifth commissioner shall be governed by sections 233.010 to 233.165, shall serve for a term of three years from the date of the appointment and until the fifth commissioner's successor shall be appointed and qualified, and shall be a voter of the county of appointment.**

5. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square.

238.202. DEFINITIONS. — 1. As used in sections 238.200 to 238.275, the following terms mean:

- (1) "Board", the board of directors of a district;
- (2) "Commission", the Missouri highways and transportation commission;
- (3) "District", a transportation development district organized under sections 238.200 to 238.275;
- (4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;
- (5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of Missouri, section 137.073, RSMo, and as used in sections 238.200 to 238.275, the following terms shall have the meanings given:

- (1) "Approval of the required majority" or "direct voter approval", a simple majority;
- (2) "Qualified electors", "qualified voters" or "voters"[.]:
 - (a) Within [the] a proposed or established district, **except for a district proposed under subsection 1 of section 238.207**, any persons residing therein who have registered to vote pursuant to chapter 115, RSMo[, and]; or
 - (b) **Within a district proposed or established under subsection 1 of section 238.207 which has no persons residing therein who have registered to vote pursuant to chapter 115, RSMo**, the owners of **record of all real property located in the district**, who shall receive one vote per acre, provided that [any] **if a registered voter [who also owns property] subsequent to the creation of the district becomes a resident within the district and obtains ownership of property within the district, such registered voter** must elect whether to vote as an owner of real property or as a registered voter, **which election once made cannot thereafter be changed;**
- (3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo.

238.207. CREATION OF DISTRICT, PROCEDURES — DISTRICT TO BE CONTIGUOUS, SIZE REQUIREMENTS — PETITION, CONTENTS — ALTERNATIVE METHOD. — 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, except public streets, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties; provided:

(1) Property separated only by public streets, easements or rights-of-way shall be considered contiguous;

(2) In the case of a district formed pursuant to a petition filed by the owners of record of all of the real property located within the proposed district, the proposed district area need not contain contiguous properties if:

(a) The petition provides that the only funding method for project costs will be a sales tax;

(b) The court finds that all of the real property located within the proposed district will benefit by the projects to be undertaken by the district; and

(c) Each parcel within the district is within five miles of every other parcel; and

(3) In the case of a district created pursuant to subsection 5 of this section, property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(4) A general description of each project proposed to be undertaken by that district, including a description of the approximate location of each project;

(5) The estimated project costs and the anticipated revenues to be collected from the project;

(6) The name of the proposed district;

(7) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;

(8) A statement that the terms of office of initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

(9) If the petition was filed by registered voters or by a governing body, a request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop a specified project or projects;

(10) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the funding proposal be submitted to the qualified voters within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(11) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

5. (1) As an alternative to the methods described in subsections 1 and 2 of this section, if two or more local transportation authorities have adopted resolutions calling for the joint establishment of a district, the governing body of any one such local transportation authority may file a petition in the circuit court of any county in which the proposed project is located requesting the creation of a district; **or, if not less than fifty registered voters from each of two or more counties sign a petition calling for the joint establishment of a district for the purpose of developing a project that lies in whole or in part within those same counties, the petition may be filed in the circuit court of any of those counties in which not less than fifty registered voters have signed the petition.**

(2) The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

(3) The petition shall set forth:

(a) That the petitioner is the governing body of a local transportation authority acting in its official capacity; **or, if the petition was filed by obtaining the signatures of not less than fifty registered voters in each of two or more counties, it shall set forth the name, voting residence, and county of residence of each individual petitioner;**

(b) The name of each local transportation authority within the proposed district. The resolution of the governing body of each local transportation authority calling for the joint establishment of the district shall be attached to the petition;

(c) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(d) A specific description of the proposed district boundaries including a map illustrating such boundaries;

(e) A general description of each project proposed to be undertaken by the district, including a description of the approximate location of each project;

(f) The name of the proposed district;

(g) The number of members of the board of directors of the proposed district;

(h) A request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop the projects described in the petition;

(i) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the imposition of the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230; and

(j) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

238.210. HEARING, HOW CONDUCTED — OPPOSITION TO DISTRICT, HOW FILED — APPEALS, HOW. — 1. Within thirty days after the petition is filed, the circuit court clerk shall serve a copy of the petition on the respondents who shall have thirty days after receipt of service to file an answer stating agreement with or opposition to the creation of the district. If any respondent files its answer opposing the creation of the district, it shall recite legal reasons why the petition is defective, why the proposed district is illegal or unconstitutional, or why the proposed method for funding the district is illegal or unconstitutional. The respondent shall ask the court for a declaratory judgment respecting these issues. The answer of each respondent shall be served on each petitioner and every other respondent named in the petition. Any resident,

taxpayer, any other entity, or any local transportation authority within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a declaratory judgment respecting these same issues within thirty days after the date notice is last published by the circuit clerk.

2. The court shall hear the case without a jury. If the court shall thereafter determine the petition is defective or the proposed district is illegal or unconstitutional, or shall be an undue burden on any owner of property within the district or is unjust and unreasonable, it shall enter its declaratory judgment to that effect and shall refuse to make the certifications requested in the pleadings. If the court determines that any proposed funding method is illegal or unconstitutional, it shall enter its judgment striking that funding method in whole or part. If the court determines the petition is not legally defective and the proposed district and method of funding are neither illegal nor unconstitutional, the court shall enter its judgment to that effect. If the petition was filed by registered voters or by a governing body, the court shall then certify the questions regarding district creation, project development, and proposed funding for voter approval. If the petition was filed by a governing body, **or by no less than fifty registered voters of two or more counties**, pursuant to subsection 5 of section 238.207, the court shall then certify the single question regarding district creation, project development, and proposed funding for voter approval. If the petition was filed by the owners of record of all of the real property located within the proposed district, the court shall declare the district organized and certify the funding methods stated in the petition for qualified voter approval; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230. In either case, if no objections to the petition are timely filed, the court may make such certifications based upon the pleadings before it without any hearing.

3. Any party having filed an answer or petition may appeal the circuit court's order or declaratory judgment in the same manner provided for other appeals. **The circuit court shall have continuing jurisdiction to enter such orders as are required for the administration of the district after its formation.**

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, RSMo, does not have more than four axles, and does not pull a trailer which has more than two axles. Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local log truck. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(36) "Motorcycle", a motor vehicle operated on two wheels;

(37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(39) "Municipality", any city, town or village, whether incorporated or not;

(40) "Nonresident", a resident of a state or country other than the state of Missouri;

(41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(42) "Operator", any person who operates or drives a motor vehicle;

(43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(44) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(45) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(46) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(47) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Was damaged during a year that is no more than six years after the manufacturer's model year designation for such vehicle to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds eighty percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or damage as a result of hail, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(54) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(55) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term specially constructed motor vehicle includes kit vehicles;

(56) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(57) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(58) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(59) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(60) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(61) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(62) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(63) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(64) **"Utility vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is sixty-three inches or less in width, with an unladen dry weight of one thousand eight hundred fifty pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes;**

(65) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

[(65)] (66) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

[(66)] (67) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

[(67)] (68) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may

prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle [except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144].

4. The plates issued to manufacturers and dealers shall bear the letters and numbers as prescribed by section 301.560, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle or trailer in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. Each such plate may be encased in a transparent cover so long as the plate is plainly visible and its reflective qualities are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, 2010, the director may prescribe any additional information recorded on the tab or tabs to ensure that the tab or tabs positively correlate with the license plate or plates issued by the department of revenue for such vehicle. Such tabs shall be produced in each license bureau office.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as otherwise provided in this section, the director of revenue shall issue plates for a period of at least six years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. No later than January 1, 2009, the director of revenue shall commence the reissuance of new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire during the period of reissuance, applicants for registration of trailers or semitrailers with license plates that expire during the period of reissuance and applicants for registration of vehicles that are to be issued new license plates during the period of reissuance shall pay the cost of the plates required by this subsection. The additional cost prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection. **Except for new, replacement, and transfer applications, permanent nonexpiring license plates issued to commercial motor vehicles and trailers registered under section 301.041 are exempt from the provisions of this subsection.**

302.010. DEFINITIONS. — Except where otherwise provided, when used in this chapter, the following words and phrases mean:

- (1) "Circuit court", each circuit court in the state;
- (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;
- (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;
- (4) "Director", the director of revenue acting directly or through the director's authorized officers and agents;
- (5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;
- (6) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;
- (7) "Incompetent to drive a motor vehicle", a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator's license, or who has been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;
- (8) "License", a license issued by a state to a person which authorizes a person to operate a motor vehicle;
- (9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180, RSMo;
- (10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010, RSMo;
- (11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;
- (12) "Moving violation", that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;
- (13) "Municipal court", every division of the circuit court having original jurisdiction to try persons for violations of city ordinances;
- (14) "Nonresident", every person who is not a resident of this state;
- (15) "Operator", every person who is in actual physical control of a motor vehicle upon a highway;
- (16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of sections 302.010 to 302.540;
- (17) "Record" includes, but is not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, digitized images, deposited or filed with the department of revenue;
- (18) "Residence address", "residence", or "resident address" shall be the location at which a person has been physically present, and that the person regards as home. A residence address is a person's true, fixed, principal, and permanent home, to which a person intends to return and remain, even though currently residing elsewhere;

(19) "Restricted driving privilege", a driving privilege issued by the director of revenue following a suspension of driving privileges for the limited purpose of driving in connection with the driver's business, occupation, employment, formal program of secondary, postsecondary or higher education, or for an alcohol education or treatment program **or certified ignition interlock provider**;

(20) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle, either publicly or privately owned, used to transport students to and from school, or to transport pupils properly chaperoned to and from any place within the state for educational purposes. The term "school bus" shall not include a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interstate transportation of passengers when such bus is not traveling a specific school bus route but is:

(a) On a regularly scheduled route for the transportation of fare-paying passengers; or

(b) Furnishing charter service for the transportation of persons enrolled as students on field trips or other special trips or in connection with other special events;

(21) "School bus operator", an operator who operates a school bus as defined in subdivision (20) of this section in the transportation of any schoolchildren and who receives compensation for such service. The term "school bus operator" shall not include any person who transports schoolchildren as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator;

(22) "Signature", any method determined by the director of revenue for the signing, subscribing or verifying of a record, report, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, application, driver's license or related document;

(23) "Substance abuse traffic offender program", a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection [13] **14** of section 302.304 and subsections 1 and 5 of section 302.540;

(24) "Vehicle", any mechanical device on wheels, designed primarily for use, or used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.

302.060. LICENSE NOT TO BE ISSUED TO WHOM, EXCEPTIONS — REINSTATEMENT REQUIREMENTS. — 1. The director shall not issue any license and shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such person, as defined in section 303.120, RSMo, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated for the second time. Any person who has been denied a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless the two convictions occurred within a five-year period, in which case, no license shall be issued to the person for five years from the date of the second conviction;

(11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

(12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license.

2. Any person whose license is reinstated under the provisions of subdivisions (9) and (10) of subsection 1 of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be suspended for the remainder of the six-month period or until proof as required by this

section is filed with the director. Upon the completion of the six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.

302.177. LICENSES, ISSUANCE AND RENEWAL, DURATION, FEES. — 1. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

2. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are less than twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license. A license issued under this section to an applicant who is over the age of sixty-nine and contains a school bus endorsement shall not be issued for a period that exceeds one year.

3. To all other applicants for a license or renewal of a license who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

4. To all other applicants for a license or renewal of a license who are less than twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory application and meet the requirements of sections 302.010 to 302.605, the director shall issue or renew such license; except that no license shall be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director. The license must be renewed on or before the date of expiration, which date shall be shown on the license.

5. The fee for a license issued for a period which exceeds three years under subsection 1 of this section shall be thirty dollars.

6. The fee for a license issued for a period of three years or less under subsection 2 of this section shall be fifteen dollars, except that the fee for a license issued for one year or less which contains a school bus endorsement shall be five dollars, **except renewal fees shall be waived for applicants seventy years of age or older seeking school bus endorsements.**

7. The fee for a license issued for a period which exceeds three years under subsection 3 of this section shall be fifteen dollars.

8. The fee for a license issued for a period of three years or less under subsection 4 of this section shall be seven dollars and fifty cents.

9. Beginning July 1, 2005, the director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section.

10. The director of revenue may adopt any rules and regulations necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

302.304. NOTICE OF POINTS — SUSPENSION OR REVOCATION OF LICENSE, WHEN, DURATION — REINSTATEMENT, CONDITION, POINT REDUCTION, FEE — FAILURE TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY, EFFECT — POINT REDUCTION PRIOR TO CONVICTION, EFFECT — SURRENDER OF LICENSE — REINSTATEMENT OF LICENSE WHEN DRUGS OR ALCOHOL INVOLVED, ASSIGNMENT RECOMMENDATION, JUDICIAL REVIEW — FEES FOR PROGRAM — SUPPLEMENTAL FEES. — 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

- (1) In the case of an initial suspension, thirty days after the effective date of the suspension;
- (2) In the case of a second suspension, sixty days after the effective date of the suspension;
- (3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege as defined in section 302.010. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the

department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a limited driving privilege granted by a court or the director of revenue.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

14. No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department of mental health. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner

allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee in an amount to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 and section 577.001, RSMo, or a program determined to be comparable by the department of mental health. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rate established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

16. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

17. Any person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (9) of subsection 1 of section 302.302 shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement of the license. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be resuspended or revoked and the person shall be guilty of a class A misdemeanor.

302.309. RETURN OF LICENSE, WHEN — LIMITED DRIVING PRIVILEGE, WHEN GRANTED, APPLICATION, WHEN DENIED — JUDICIAL REVIEW OF DENIAL BY DIRECTOR OF REVENUE — RULEMAKING. — 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; [or]
- (e) **Seeking the required services of a certified ignition interlock device provider; or**
- (f) Any other circumstance the court or director finds would create an undue hardship on the operator;

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) **No limited driving privilege shall be issued to any person otherwise eligible under the provisions of paragraph (a) of subdivision (6) of subsection 3 of this section on a license revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302; or a license denial under paragraph (a) or (b) of subdivision (8) of subsection 3 of this section; until the applicant has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of limited driving privilege.**

(5) The court order or the director's grant of the limited **or restricted** driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating

a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. **Failure of the driver to maintain proof of financial responsibility, as required by chapter 303, or to maintain proof of installation of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege.** The director shall notify by ordinary mail the driver whose privilege is so terminated.

[(5)] (6) Except as provided in subdivision [(7)] (8) of this subsection, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state; or

(g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation.

[(6)] (7) No person who possesses a commercial driver's license shall receive a limited driving privilege issued for the purpose of operating a commercial motor vehicle if such person's driving privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege.

[(7)] (8) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years

because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

302.341. MOVING TRAFFIC VIOLATION, FAILURE TO PREPAY FINE OR APPEAR IN COURT, LICENSE SUSPENDED, PROCEDURE — REINSTATEMENT WHEN — EXCESSIVE REVENUE FROM FINES TO BE DISTRIBUTED TO SCHOOLS — DEFINITION, STATE HIGHWAYS. — If a Missouri resident charged with a moving traffic violation of this state or any county or municipality of this state fails to dispose of the charges of which he is accused through authorized prepayment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine or court costs assessed against him for any such violation within the period of time specified or in such installments as approved by the court or as otherwise provided by law, any court having jurisdiction over the charges shall within ten days of the failure to comply inform the defendant by ordinary mail at the last address shown on the court records that the court will order the director of revenue to suspend the defendant's driving privileges if the charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court shall notify the director of revenue of such failure and of the pending charges against the defendant. Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue. Such suspension shall remain in effect until the court with the subject pending charge requests setting aside the noncompliance suspension pending final disposition, or satisfactory evidence of disposition of pending charges and payment of fine and court costs, if applicable, is furnished to the director by the individual. Upon proof of disposition of charges and payment of fine and court costs, if applicable, and payment of the reinstatement fee as set forth in section 302.304, the director shall [reinstate] **return the license and remove the suspension from the individual's driving record.** The filing of financial responsibility with the bureau of safety responsibility, department of revenue, shall not be required as a

condition of reinstatement of a driver's license suspended solely under the provisions of this section. If any city, town or village receives more than forty-five percent of its total annual revenue from fines for traffic violations occurring on state highways, all revenues from such violations in excess of forty-five percent of the total annual revenue of the city, town or village shall be sent to the director of the department of revenue and shall be distributed annually to the schools of the county in the same manner that proceeds of all penalties, forfeitures and fines collected for any breach of the penal laws of the state are distributed. For the purpose of this section the words "state highways" shall mean any state or federal highway, including any such highway continuing through the boundaries of a city, town or village with a designated street name other than the state highway number.

302.525. SUSPENSION OR REVOCATION, WHEN EFFECTIVE, DURATION — RESTRICTED DRIVING PRIVILEGE — EFFECT OF SUSPENSION OR REVOCATION BY COURT ON CHARGES ARISING OUT OF SAME OCCURRENCE — REVOCATION DUE TO ALCOHOL-RELATED OFFENSES, REQUIREMENTS. — 1. The license suspension or revocation shall become effective fifteen days after the subject person has received the notice of suspension or revocation as provided in section 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in section 302.515. If a request for a hearing is received by or postmarked to the department within that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final order is issued following the hearing; provided, that any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension or revocation during the period of delay.

2. The period of license suspension or revocation under this section shall be as follows:

(1) If the person's driving record shows no prior alcohol-related enforcement contacts during the immediately preceding five years, the period of suspension shall be thirty days after the effective date of suspension, followed by a sixty-day period of restricted driving privilege as defined in section 302.010 and issued by the director of revenue. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first thirty days of a suspension under this section;

(2) The period of revocation shall be one year if the person's driving record shows one or more prior alcohol-related enforcement contacts during the immediately preceding five years;

(3) In no case shall restricted driving privileges be issued under this section to any person whose driving record shows one or more prior alcohol-related enforcement contacts until the person has completed the first thirty days of a suspension under this section and has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of the restricted driving privilege. If the person fails to maintain such proof the restricted driving privilege shall be terminated.

3. For purposes of this section, "alcohol-related enforcement contacts" shall include any suspension or revocation under sections 302.500 to 302.540, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving **while intoxicated, driving while under the influence of drugs or alcohol, or driving a vehicle while having an unlawful alcohol concentration.**

4. Where a license is suspended or revoked under this section and the person is also convicted on charges arising out of the same occurrence for a violation of section 577.010 or 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol-related traffic offense, both the suspension or revocation under this section and any other suspension or revocation arising from such convictions shall be imposed,

but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation arising from such convictions, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

5. Any person who has had a license to operate a motor vehicle revoked under this section or suspended under this section with one or more prior alcohol-related enforcement contacts showing on their driver record shall be required to file proof with the director of revenue that any motor vehicle operated by that person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be resuspended or revoked, as applicable.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS — THIRD-PARTY TESTERS, WHEN. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the Secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

(1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test, **except the examination fee shall be waived for applicants seventy years of age or older renewing a license with a school bus endorsement.** The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester.

(3) Beginning August 28, 2006, the director shall only issue or renew third-party tester certification to junior colleges or community colleges established under chapter 178, RSMo, or to private companies who own, lease, or maintain their own fleet and administer in-house testing to their employees, or to school districts and their agents that administer in-house testing to the school district's or agent's employees. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(4) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid upon completion of such tests.

(5) The director shall have the authority to waive the driving skills test for any qualified military applicant for a commercial driver's license who is currently licensed at the time of application for a commercial driver's license. The director shall impose conditions and limitations to restrict the applicants from whom the department may accept alternative requirements for the skills test described in federal regulation 49 C.F.R. 383.77. An applicant must certify that, during the two-year period immediately preceding application for a commercial driver's license, all of the following apply:

- (a) The applicant has not had more than one license;
- (b) The applicant has not had any license suspended, revoked, or cancelled;
- (c) The applicant has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this chapter or federal rule 49 C.F.R. 383.51(b);
- (d) The applicant has not had more than one conviction for any type of motor vehicle for serious traffic violations;
- (e) The applicant has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, but not including any parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault;
- (f) The applicant is regularly employed in a job requiring operation of a commercial motor vehicle and has operated the vehicle for at least sixty days during the two years immediately preceding application for a commercial driver's license. The vehicle must be representative of the commercial motor vehicle the driver applicant operates or expects to operate;
- (g) The applicant, if on active duty, must provide a notarized affidavit signed by a commanding officer as proof of driving experience as indicated in paragraph (f) of this subdivision;
- (h) The applicant, if honorably discharged from military service, must provide a form-DD214 or other proof of military occupational specialty;
- (i) The applicant must meet all federal and state qualifications to operate a commercial vehicle; and
- (j) The applicant will be required to complete all applicable knowledge tests.

3. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any

state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

5. Notwithstanding the provisions of this section or any other law to the contrary, beginning August 28, 2008, the director of the department of revenue shall certify as a third-party tester any municipality that owns, leases, or maintains its own fleets that requires certain employees as a condition of employment to hold a valid commercial driver's license; and that administered in-house testing to such employees prior to August 28, 2006.

302.735. APPLICATION FOR COMMERCIAL LICENSE, CONTENTS, EXPIRATION, DURATION, FEES — NEW RESIDENT, APPLICATION DATES — FALSIFICATION OF INFORMATION, INELIGIBILITY FOR LICENSE, WHEN — NONRESIDENT COMMERCIAL LICENSE ISSUED, WHEN. — 1. An application shall not be taken from a nonresident after September 30, 2005. The application for a commercial driver's license shall include, but not be limited to, the applicant's legal name, mailing and residence address, if different, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number, date of birth and any other information deemed appropriate by the director. The application shall also require, beginning September 30, 2005, the applicant to provide the names of all states where the applicant has been previously licensed to drive any type of motor vehicle during the preceding ten years.

2. A commercial driver's license shall expire on the applicant's birthday in the sixth year after issuance, unless the license must be issued for a shorter period due to other requirements of law or for transition or staggering of work as determined by the director, and must be renewed on or before the date of expiration. When a person changes such person's name an application for a duplicate license shall be made to the director of revenue. When a person changes such person's mailing address or residence the applicant shall notify the director of revenue of said change, however, no application for a duplicate license is required. A commercial license issued pursuant to this section to an applicant less than twenty-one years of age and seventy years of age and older shall expire on the applicant's birthday in the third year after issuance, unless the license must be issued for a shorter period as determined by the director.

3. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a period exceeding five years from the approval date of the security threat assessment as determined by the Transportation Security Administration.

4. The director shall issue an annual commercial driver's license containing a school bus endorsement to an applicant who is seventy years of age or older. The fee for such license shall be seven dollars and fifty cents; **except renewal fees shall be waived for applicants seventy years of age or older seeking school bus endorsements.**

5. A commercial driver's license containing a hazardous materials endorsement issued to an applicant who is seventy years of age or older shall not be issued for a period exceeding three years. The director shall not require such drivers to obtain a security threat assessment more frequently than such assessment is required by the Transportation Security Administration under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

6. The fee for a commercial driver's license or renewal commercial driver's license issued for a period greater than three years shall be forty dollars.

7. The fee for a commercial driver's license or renewal commercial driver's license issued for a period of three years or less shall be twenty dollars.

8. The fee for a duplicate commercial driver's license shall be twenty dollars.

9. In order for the director to properly transition driver's license requirements under the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and make adjustments for any fees, including driver examination fees that are incurred by the driver as a result of the initial issuance of a transitional license required to comply with such acts.

10. Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.

11. Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.

12. Beginning July 1, 2005, the director shall not issue a commercial driver's license under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. If lawful presence is granted for a temporary period, no commercial driver's license shall be issued. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any commercial driver's license issued under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections 1 and 5 of this section to the contrary, the director may issue a nonresident commercial driver's license to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. Part 383.

(2) Any applicant for a nonresident commercial driver's license must present evidence satisfactory to the director that the applicant currently has employment with an employer in this state. The nonresident applicant must meet the same testing, driver record requirements, conditions, and is subject to the same disqualification and conviction reporting requirements applicable to resident commercial drivers.

(3) The nonresident commercial driver's license will expire on the same date that the documents establishing lawful presence for employment expire. The word "nonresident" shall appear on the face of the nonresident commercial driver's license. Any applicant for a Missouri nonresident commercial driver's license must first surrender any nonresident commercial driver's license issued by another state.

(4) The nonresident commercial driver's license applicant must pay the same fees as required for the issuance of a resident commercial driver's license.

14. Foreign jurisdiction for purposes of issuing a nonresident commercial driver's license under this section shall not include any of the fifty states of the United States or Canada or Mexico.

304.015. DRIVE ON RIGHT OF HIGHWAY — TRAFFIC LANES — SIGNS — VIOLATIONS, PENALTIES. — 1. All vehicles not in motion shall be placed with their right side as near the

right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.

2. Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;

(2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of sections 304.014 to [304.026] **304.025** or traffic regulations thereunder or of municipalities;

(3) When the right half of a roadway is closed to traffic while under construction or repair;

(4) Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

3. It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

4. The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the Missouri highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

5. Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in sections 304.014 to [304.026] **304.025**;

(4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;

(5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

6. All vehicles in motion upon a highway having two or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

7. **All trucks registered for a gross weight of more than forty-eight thousand pounds shall not be driven in the far left-hand lane upon all interstate highways, freeways, or**

expressways within urbanized areas of the state having three or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

(1) It is necessary for the operator of the truck to follow traffic control devices that direct use of a lane other than the right lane; or

(2) The right half of a roadway is closed to traffic while under construction or repair.

8. As used in subsection 7 of this section, "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle as defined in section 301.010, RSMo.

9. Violation of this section shall be deemed an infraction unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class C misdemeanor, or unless an accident results from such violation, in which case such violation shall be deemed a class A misdemeanor.

304.032. UTILITY VEHICLES, OPERATION ON HIGHWAY AND IN STREAMS OR RIVERS PROHIBITED — EXCEPTIONS — PASSENGERS PROHIBITED — VIOLATIONS, PENALTY. — 1. No person shall operate a utility vehicle, as defined in section 301.010, RSMo, upon the highways of this state, except as follows:

(1) Utility vehicles owned and operated by a governmental entity for official use;

(2) Utility vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation, unless equipped with proper lighting;

(3) Utility vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads when operated between the hours of sunrise and sunset;

(4) Governing bodies of cities may issue special permits for utility vehicles to be used on highways within the city limits by licensed drivers. Fees of fifteen dollars may be collected and retained by cities for such permits;

(5) Governing bodies of counties may issue special permits for utility vehicles to be used on county roads within the county by licensed drivers. Fees of fifteen dollars may be collected and retained by the counties for such permits.

2. No person shall operate a utility vehicle within any stream or river in this state, except that utility vehicles may be operated within waterways which flow within the boundaries of land which a utility vehicle operator owns, or for agricultural purposes within the boundaries of land which a utility vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions or department of conservation agents or department of natural resources park rangers shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating a utility vehicle on a highway pursuant to an exception covered in this section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle under subdivision (3) of subsection 1 of this section, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than forty-five miles per hour.

4. No persons shall operate a utility vehicle:

(1) In any careless way so as to endanger the person or property of another; or

(2) While under the influence of alcohol or any controlled substance.

5. No operator of a utility vehicle shall carry a passenger, except for agricultural purposes. The provisions of this subsection shall not apply to any utility vehicle in which the seat of such vehicle is designed to carry more than one person.

6. A violation of this section shall be a class C misdemeanor. In addition to other legal remedies, the attorney general or county prosecuting attorney may institute a civil action in a court of competent jurisdiction for injunctive relief to prevent such violation or future violations and for the assessment of a civil penalty not to exceed one thousand dollars per day of violation.

304.130. REGULATION OF VEHICULAR TRAFFIC — NOTICE, HEARINGS — APPROVAL — PUBLICATION OF NOTICE (FIRST CLASS COUNTIES). — 1. For the purpose of promoting the public safety, health and general welfare and to protect life and property, the county commission in all counties of the first class, is empowered to adopt, by order or ordinance, regulations to control vehicular traffic upon the public roads and highways in the unincorporated territory of such counties and to establish reasonable speed regulations in congested areas upon such public roads and highways in the unincorporated territory of such counties. Such regulations shall not be inconsistent with the provisions of the general motor vehicle laws of this state.

2. **Except as provided in subsection 3 of this section,** before the adoption of such regulations, the county commission shall hold at least three public hearings thereon, fifteen days' notice of the time and place of which shall be published in at least two newspapers having a general circulation within the county, and notice of such hearing shall also be posted at least fifteen days in advance thereof in four conspicuous places in the county; provided, however, that any regulations respecting stop signs, signal lights and speed limits on state or federal highways shall be approved by the state highways and transportation commission before the same shall become effective.

3. **Regulations relating solely to increasing speed limits shall be exempt from the procedural requirements of subsection 2 of this section and shall take effect immediately upon approval of the county commission.**

4. The regulations adopted shall be codified, printed and distributed for public use; provided, however, that adequate signs displaying the speed limit must be posted along the highways at the points along such highways where such speed limits begin and end.

304.180. REGULATIONS AS TO WEIGHT — AXLE LOAD, TANDEM AXLE DEFINED — IDLE REDUCTION TECHNOLOGY, INCREASE IN MAXIMUM GROSS WEIGHT PERMITTED, AMOUNT — HAULING LIVESTOCK, TOTAL GROSS WEIGHT PERMITTED. — 1. No vehicle or combination of vehicles shall be moved or operated on any highway in this state having a greater weight than twenty thousand pounds on one axle, no combination of vehicles operated by transporters of general freight over regular routes as defined in section 390.020, RSMo, shall be moved or operated on any highway of this state having a greater weight than the vehicle manufacturer's rating on a steering axle with the maximum weight not to exceed twelve thousand pounds on a steering axle, and no vehicle shall be moved or operated on any state highway of this state having a greater weight than thirty-four thousand pounds on any tandem axle; the term "tandem axle" shall mean a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart.

2. An "axle load" is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

3. Subject to the limit upon the weight imposed upon a highway of this state through any one axle or on any tandem axle, the total gross weight with load imposed by any group of two or more consecutive axles of any vehicle or combination of vehicles shall not exceed the maximum load in pounds as set forth in the following table:

Distance in feet
between the extremes
of any group of two or
more consecutive axles,
measured to the nearest
foot, except where
indicated otherwise

		Maximum load in pounds			
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	34,000	34,000			
More than 8	38,000	42,000			
9	39,000	42,500			
10	40,000	43,500			
11	40,000	44,000			
12	40,000	45,000	50,000		
13	40,000	45,500	50,500		
14	40,000	46,500	51,500		
15	40,000	47,000	52,000		
16	40,000	48,000	52,500	58,000	
17	40,000	48,500	53,500	58,500	
18	40,000	49,500	54,000	59,000	
19	40,000	50,000	54,500	60,000	
20	40,000	51,000	55,500	60,500	66,000
21	40,000	51,500	56,000	61,000	66,500
22	40,000	52,500	56,500	61,500	67,000
23	40,000	53,000	57,500	62,500	68,000
24	40,000	54,000	58,000	63,000	68,500
25	40,000	54,500	58,500	63,500	69,000
26	40,000	55,500	59,500	64,000	69,500
27	40,000	56,000	60,000	65,000	70,000
28	40,000	57,000	60,500	65,500	71,000
29	40,000	57,500	61,500	66,000	71,500
30	40,000	58,500	62,000	66,500	72,000
31	40,000	59,000	62,500	67,500	72,500
32	40,000	60,000	63,500	68,000	73,000
33	40,000	60,000	64,000	68,500	74,000
34	40,000	60,000	64,500	69,000	74,500
35	40,000	60,000	65,500	70,000	75,000
36		60,000	66,000	70,500	75,500
37		60,000	66,500	71,000	76,000
38		60,000	67,500	72,000	77,000
39		60,000	68,000	72,500	77,500
40		60,000	68,500	73,000	78,000
41		60,000	69,500	73,500	78,500
42		60,000	70,000	74,000	79,000
43		60,000	70,500	75,000	80,000
44		60,000	71,500	75,500	80,000
45		60,000	72,000	76,000	80,000
46		60,000	72,500	76,500	80,000

47	60,000	73,500	77,500	80,000
48	60,000	74,000	78,000	80,000
49	60,000	74,500	78,500	80,000
50	60,000	75,500	79,000	80,000
51	60,000	76,000	80,000	80,000
52	60,000	76,500	80,000	80,000
53	60,000	77,500	80,000	80,000
54	60,000	78,000	80,000	80,000
55	60,000	78,500	80,000	80,000
56	60,000	79,500	80,000	80,000
57	60,000	80,000	80,000	80,000

Notwithstanding the above table, two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

4. Whenever the state highways and transportation commission finds that any state highway bridge in the state is in such a condition that use of such bridge by vehicles of the weights specified in subsection 3 of this section will endanger the bridge, or the users of the bridge, the commission may establish maximum weight limits and speed limits for vehicles using such bridge. The governing body of any city or county may grant authority by act or ordinance to the state highways and transportation commission to enact the limitations established in this section on those roadways within the purview of such city or county. Notice of the weight limits and speed limits established by the commission shall be given by posting signs at a conspicuous place at each end of any such bridge.

5. Nothing in this section shall be construed as permitting lawful axle loads, tandem axle loads or gross loads in excess of those permitted under the provisions of Section 127 of Title 23 of the United States Code.

6. Notwithstanding the weight limitations contained in this section, any vehicle or combination of vehicles operating on highways other than the interstate highway system may exceed single axle, tandem axle and gross weight limitations in an amount not to exceed two thousand pounds. However, total gross weight shall not exceed eighty thousand pounds, **except as provided in subsection 9 of this section.**

7. Notwithstanding any provision of this section to the contrary, the department of transportation shall issue a single-use special permit, or upon request of the owner of the truck or equipment, shall issue an annual permit, for the transporting of any concrete pump truck or well-drillers' equipment. The department of transportation shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, RSMo, concrete pump trucks or well-drillers' equipment may be operated on state-maintained roads and highways at any time on any day.

8. Notwithstanding the provision of this section to the contrary, the maximum gross vehicle limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction technology may be increased by a quantity necessary to compensate for the additional weight of the idle reduction system as provided for in 23 U.S.C. Section 127, as amended. In no case shall the additional weight increase allowed by this subsection be greater than four hundred pounds. Upon request by an appropriate law enforcement officer, the vehicle operator shall provide proof that the idle reduction technology is fully functional at all times and that the gross weight increase is not used for any purpose other than for the use of idle reduction technology.

9. Notwithstanding subsection 3 of this section or any other provision of law to the contrary, the total gross weight of any vehicle or combination of vehicles hauling livestock may be as much as, but shall not exceed, eighty-five thousand five hundred pounds while

operating on U.S. Highway 36 from St. Joseph to U.S. Highway 65, and on U.S. Highway 65 from the Iowa state line to U.S. Highway 36.

304.230. ENFORCEMENT OF LOAD LAWS — COMMERCIAL VEHICLE INSPECTORS, POWERS. — 1. It shall be the duty of the sheriff of each county or city to see that the provisions of sections 304.170 to 304.230 are enforced, and any peace officer or police officer of any county or city or any highway patrol officer shall have the power to arrest on sight or upon a warrant any person found violating or having violated the provisions of such sections. **Beginning January 1, 2009, only law enforcement officers that have been approved by the Missouri state highway patrol under section 304.232, members of the Missouri state highway patrol, commercial vehicle enforcement officers, and commercial vehicle inspectors appointed under subsection 4 of this section shall have the authority to conduct random roadside examinations or inspections to determine compliance with sections 304.170 to 304.230, and only such officers shall have the authority, with or without probable cause to believe that the size or weight is in excess of that permitted by sections 304.170 to 304.230, to require the driver, operator, owner, lessee, or bailee, to stop, drive, or otherwise move to a location to determine compliance with sections 304.170 to 304.230. Notwithstanding the provisions of this subsection, a law enforcement officer not certified under section 304.232, may stop a vehicle that has a visible external safety defect relating to the enforcement of the provisions of sections 304.170 to 304.230 that could cause immediate harm to the traveling public. Nothing in this section shall be construed as preventing a law enforcement officer not certified under section 304.232 from stopping and detaining a commercial motor vehicle when such officer has probable cause to believe that the commercial motor vehicle is being used to conduct illegal or criminal activities unrelated to violations of sections 304.170 to 304.230. In the course of a stop, the law enforcement officer shall identify to the driver the defect that caused the stop. If the vehicle passes a comprehensive roadside inspection, the law enforcement officer, state highway patrolman, or other authorized person shall issue such vehicle a Commercial Vehicle Safety Alliance inspection decal to be affixed to the vehicle in a manner prescribed by the Commercial Vehicle Safety Alliance. The superintendent of the Missouri state highway patrol shall promulgate rules and regulations relating to the implementation of the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.**

2. [The sheriff or] Any peace officer **approved under section 304.232** or any highway patrol officer is hereby given the power to stop any such conveyance or vehicle as above described upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof he or she shall have a right at that time and place to cause the excess load to be removed from such vehicle; and provided further, that any regularly employed maintenance man of the department of transportation shall have the right and authority in any part of this state to stop any such conveyance or vehicle upon the public highway for the purpose of determining whether such vehicle is loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions thereof, he or she shall have the right at that time and place to cause the excess load to be removed from such vehicle. When only an axle or a tandem axle group of a vehicle is overloaded, the operator shall be permitted to shift the load, if this will not overload some other

axle or axles, without being charged with a violation; provided, however, the privilege of shifting the weight without being charged with a violation shall not extend to or include vehicles while traveling on the federal interstate system of highways. When only an axle or tandem axle group of the vehicle traveling on the federal interstate system of highways is overloaded and a court authorized to enforce the provisions of sections 304.170 to 304.230 finds that the overloading was due to the inadvertent shifting of the load changing axle weights in transit through no fault of the operator of the vehicle and that the load thereafter had been shifted so that no axle had been overloaded, then the court may find that no violation has been committed. The operator of any vehicle shall be permitted to back up and reweigh, or to turn around and weigh from the opposite direction. Any operator whose vehicle is weighed and found to be within five percent of any legal limit may request and receive a weight ticket, memorandum or statement showing the weight or weights on each axle or any combinations of axles. Once a vehicle is found to be within the limits of section 304.180 after having been weighed on any state scale and there is no evidence that any cargo or fuel has been added, no violation shall occur, but a presumption shall exist that cargo or fuel has been added if upon reweighing on another state scale the total gross weight exceeds the applicable limits of section 304.180 or 304.190. The highways and transportation commission of this state may deputize and appoint any number of their regularly employed maintenance men to enforce the provisions of such sections, and the maintenance men delegated and appointed in this section shall report to the proper officers any violations of sections 304.170 to 304.230 for prosecution by such proper officers.

3. The superintendent of the Missouri state highway patrol may assign qualified persons who are not highway patrol officers to supervise or operate permanent or portable weigh stations used in the enforcement of commercial vehicle laws. These persons shall be designated as commercial vehicle inspectors and have limited police powers:

(1) To issue uniform traffic tickets at a permanent or portable weigh station for violations of rules and regulations of the division of motor carrier [and railroad safety of the department of economic development] **services of the highway and transportation commission** and department of public safety, and laws, rules, and regulations pertaining to commercial motor vehicles and trailers and related to size, weight, fuel tax, registration, equipment, driver requirements, transportation of hazardous materials and operators' or chauffeurs' licenses, and the provisions of sections 303.024 and 303.025, RSMo;

(2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;

(3) To make arrests for violation of subdivisions (1) and (2) of this subsection. Commercial vehicle inspectors shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol; nor shall they have the right as peace officers to bear arms.

4. The superintendent of the Missouri state highway patrol may appoint qualified persons, who are not members of the highway patrol, designated as commercial vehicle enforcement officers, with the powers:

(1) To issue uniform traffic tickets for violations of laws, rules and regulations pertaining to commercial vehicles, trailers, special mobile equipment and drivers of such vehicles, and the provisions of sections 303.024 and 303.025, RSMo;

(2) To require the operator of any commercial vehicle to stop and submit to a vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and regulations, compliance with the provisions of sections 303.024 and 303.025, RSMo, and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations;

(3) To make arrests upon warrants and for violations of subdivisions (1) and (2) of this subsection. **Commercial vehicle officers selected and designated as peace officers by the superintendent of the Missouri state highway patrol are hereby declared to be peace officers of the state of Missouri, with full power and authority to make arrests solely for violations under the powers granted in subdivisions (1) to (3) of this subsection.** Commercial vehicle enforcement officers shall not have the authority to exercise the powers granted in subdivisions (1), (2) and (3) of this subsection until they have successfully completed training approved by the superintendent of the Missouri state highway patrol **and have completed the mandatory standards for the basic training and licensure of peace officers established by the peace officers standards and training commission under subsection 1 of section 590.030, RSMo. Commercial vehicle officers who are employed and performing their duties on August 28, 2008, shall have until July 1, 2012, to comply with the mandatory standards regarding police officer basic training and licensure.** Commercial vehicle enforcement officers shall have the right as peace officers to bear arms.

5. Any additional employees needed for the implementation of this section shall be hired in conformity with the provisions of the federal fair employment and antidiscrimination acts.

6. Any part of this section which shall be construed to be in conflict with the axle or tandem axle load limits permitted by the Federal-Aid Highway Act, Section 127 of Title 23 of the United States Code (Public Law 85-767, 85th Congress) shall be null, void and of no effect.

7. The superintendent may also appoint members of the patrol who are certified under the commercial vehicle safety alliance with the power to conduct commercial motor vehicle and driver inspections and to require the operator of any commercial vehicle to stop and submit to said inspections to determine compliance with commercial vehicle laws, rules, and regulations; compliance with the provisions of sections 303.024 and 303.025, RSMo; and to submit to a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations.

304.232. MUNICIPAL LAW ENFORCEMENT OFFICERS, STATE HIGHWAY PATROL TO APPROVE CERTIFICATION PROCEDURES — FEES — REQUIREMENTS — RANDOM ROADSIDE INSPECTIONS PROHIBITED, WHEN — RULEMAKING AUTHORITY. — 1. The Missouri state highway patrol shall approve procedures for the certification of municipal police officers, sheriffs, deputy sheriffs, and other law enforcement officials that enforce sections 304.170 to 304.230.

2. The certification procedures shall meet the requirements of the memorandum of understanding between the state of Missouri and the Commercial Vehicle Safety Alliance or any successor organization, as periodically adopted or amended.

3. Commercial motor vehicle safety data collection, management, and distribution by law enforcement officials shall be compatible with the information systems of the Missouri state highway patrol.

4. The Missouri state highway patrol shall establish reasonable fees sufficient to recover the cost of training, recurring training, data collection and management, certifying, and additional administrative functions for law enforcement officials approved under this section.

5. The agencies for which law enforcement officials approved under this section shall adhere to the Motor Carrier Safety Assistance Program requirements under 49 Code of Federal Regulations Part 350 of the Federal Motor Carrier Safety Regulations.

6. The agencies for which law enforcement officials approved under this section shall be subject to periodic program reviews and be required to submit a commercial vehicle safety plan that is consistent with and incorporated into the statewide enforcement plan.

7. Beginning January 1, 2009, no local law enforcement officer may conduct a random commercial motor vehicle roadside inspection to determine compliance with the

provisions of sections 304.170 to 304.230 unless the law enforcement officer has satisfactorily completed, as a part of his or her training, the basic course of instruction developed by the Commercial Vehicle Safety Alliance and has been approved by the Missouri state highway patrol under this section. Law enforcement officers authorized to enforce the provisions of sections 304.170 to 304.230 shall annually receive in-service training related to commercial motor vehicle operations, including but not limited to training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria. The annual training requirements shall be approved by the superintendent of the state highway patrol.

8. Law enforcement officers who have received Commercial Vehicle Safety Alliance certification prior to January 1, 2009, shall be exempt from the provisions of this section and such officers shall be qualified to conduct random roadside inspections described under this section and section 304.230.

9. The superintendent of the state highway patrol shall promulgate rules and regulations necessary to administer the certification procedures and any other provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

304.590. TRAVEL SAFE ZONE DEFINED — DOUBLING OF FINE FOR VIOLATION IN — SIGNAGE REQUIRED. — 1. As used in this section, the term "travel safe zone" means any area upon or around any highway, as defined in section 302.010, RSMo, which is visibly marked by the department of transportation; and when a highway safety analysis demonstrates fatal or disabling motor vehicle crashes exceed a predicted safety performance level for comparable roadways as determined by the department of transportation.

2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall double the amount of fine authorized to be imposed by law, if the moving violation or offense occurred within a travel safe zone.

3. Upon a conviction or plea of guilty by any person for a speeding violation under section 304.009 or 304.010, the court shall double the amount of fine authorized by law, if the violation occurred within a travel safe zone.

4. The penalty authorized under subsections 1 and 3 of this section shall only be assessed by the court if the department of transportation has erected signs upon or around a travel safe zone which are clearly visible from the highway and which state substantially the following message: "Travel Safe Zone — Fines Doubled".

5. This section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302, RSMo.

305.230. AERONAUTICS PROGRAM, HIGHWAYS AND TRANSPORTATION COMMISSION TO ADMINISTER — PURPOSES — AVIATION TRUST FUND, ADMINISTRATION, USES — APPROPRIATION — IMMEDIATE AVAILABILITY OF FUNDS IN THE EVENT OF A DISASTER. —

1. The state highways and transportation commission shall administer an aeronautics program within this state. The commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The commission may provide financial assistance in the form of grants from funds appropriated for such purpose

to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the commission and, when appropriated, shall be used for the following purposes:

(1) As matching funds on an up to ninety percent state/ten percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;

(h) For the erection of fencing on or around the perimeter of an airport;

(i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;

(j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;

(k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans and airport layout plans at existing airports;

(l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;

(m) If at least six million dollars is deposited into the aviation trust fund in the previous calendar year, up to two million dollars may be expended annually upon the study or promotion of expanded domestic or international scheduled commercial service, the study or promotion of intrastate scheduled commercial service, or to assist airport

sponsors participating in a federally funded air service program supporting intrastate scheduled commercial service;

- (2) As total funds, with no local match:
 - (a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;
 - (b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the commission;
 - (c) For the conducting of aviation safety workshops;
 - (d) For the promotion of aerospace education;
- (3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the United States Department of Defense, except no more than one hundred sixty-seven thousand dollars per year may be used for any individual control tower.
- (4) **As total funds with a local match, up to five hundred thousand dollars per year may be used for air traffic control towers partially funded by the federal government under a cost-share program. Any expenditures under this program require a non-federal match, comprised of a ratio of fifty percent state and fifty percent local funds. No more than one hundred thousand dollars per year may be expended for any individual control tower.**

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the commission. For projects designated as emergencies by the commission, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010, RSMo, or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.

385.400. CITATION OF LAW. — Sections 385.400 to 385.436 shall be known and may be cited as the "Missouri Vehicle Protection Product Act".

385.403. DEFINITIONS. — As used in sections 385.400 to 385.436, the following terms shall mean:

- (1) **"Administrator", a third party other than the warrantor who is designated by the warrantor to be responsible for the administration of vehicle protection product warranties;**
- (2) **"Department", the department of insurance, financial institutions and professional registration;**
- (3) **"Director", the director of the department of insurance, financial institutions, and professional registration;**
- (4) **"Incidental costs", expenses specified in the warranty incurred by the warranty holder related to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees;**
- (5) **"Premium", the consideration paid to an insurer for a reimbursement insurance policy;**

(6) "Service contract", a contract or agreement for a separately stated consideration or for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

(7) "Vehicle protection product", a vehicle protection device, system, or service that:

(a) Is installed on or applied to a vehicle;

(b) Is designed to prevent loss or damage to a vehicle from a specific cause; and

(c) Includes a written vehicle protection product warranty.

For purposes of sections 385.400 to 385.436, the term "vehicle protection product" shall include, without limitation, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices;

(8) "Vehicle protection product warranty" or "warranty", a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, then the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty. Incidental costs may be reimbursed under the provisions of the warranty in either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder;

(9) "Vehicle protection product warrantor" or "warrantor", a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. "Warrantor" does not include an authorized insurer providing a warranty reimbursement insurance policy;

(10) "Warranty holder", the person who purchases a vehicle protection product or who is a permitted transferee;

(11) "Warranty reimbursement insurance policy", a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor or to pay on behalf of the warrantor all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.

385.406. APPLICABILITY, EXCEPTIONS. — 1. No vehicle protection product may be sold or offered for sale in this state unless the seller, warrantor, and administrator, if any, comply with the provisions of sections 385.400 to 385.436.

2. Vehicle protection product warrantors and related vehicle protection product sellers and warranty administrators complying with sections 385.400 to 385.436 are not required to comply with and are not subject to any other provisions of the state insurance code.

3. Service contract providers who do not sell vehicle protection products are not subject to the requirements of sections 385.400 to 385.436 and sales of vehicle protection products are exempt from the requirements of sections 385.200 to 385.220.

4. Warranties, indemnity agreements, and guarantees that are not provided as a part of a vehicle protection product are not subject to the provisions of sections 385.400 to 385.436.

5. Notwithstanding the provisions of sections 408.140 and 408.233, RSMo, a business which is licensed and regulated under sections 367.100 to 367.215 or sections 367.500 to 367.533, RSMo, may offer and sell service contracts, as defined in sections 385.200,

385.300, and 385.403, in conjunction with other transactions so long as such business complies with all other requirements of chapter 385.

385.409. REGISTRATION REQUIRED — RECORDS, CONTENT — FEE — NOTICE FOR FAILURE TO REGISTER. — 1. A person may not operate as a warrantor or represent to the public that the person is a warrantor unless the person is registered with the department on a form prescribed by the director.

2. Warrantor registration records shall be filed annually and shall be updated within thirty days of any change. The registration records shall contain the following information:

(1) The warrantor's name, any fictitious names under which the warrantor does business in the state, principal office address, and telephone number;

(2) The name and address of the warrantor's agent for service of process in the state if other than the warrantor;

(3) The names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business;

(4) The name, address, and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this state;

(5) A copy of the warranty reimbursement insurance policy or policies or other financial information required by section 385.412;

(6) A copy of each warranty the warrantor proposes to use in this state; and

(7) A statement indicating under which provision of section 385.412 the warrantor qualifies to do business in this state as a warrantor.

3. The director may charge each registrant a reasonable fee to offset the cost of processing the registration and maintaining the records in an amount not to exceed five hundred dollars annually or as set by regulation. The information in subdivisions (1) and (2) of subsection 2 of this section shall be made available to the public.

4. If a registrant fails to register by the renewal deadline, the director shall give him or her written notice of the failure and the registrant will have thirty days to complete the renewal of his or her registration before he or she is suspended from being registered in this state.

5. An administrator or person who sells or solicits a sale of a vehicle protection product but who is not a warrantor shall not be required to register as a warrantor or be licensed under the insurance laws of this state to sell vehicle protection products.

385.412. VEHICLE PROTECTION PRODUCTS, NO OFFER FOR SALE UNLESS WARRANTOR ENSURES ADEQUATE PERFORMANCE. — No vehicle protection product shall be sold or offered for sale in this state unless the warrantor conforms to either subdivision (1) or (2) of this section in order to ensure adequate performance under the warranty. No other financial security requirements or financial standards for warrantors shall be required. The vehicle protection product's warrantor may meet the requirements of this section by:

(1) Obtaining a warranty reimbursement insurance policy issued by an insurer authorized to do business within this state which provides that the insurer will pay to, or on behalf of, the warrantor one hundred percent of all sums that the warrantor is legally obligated to pay according to the warrantor's contractual obligations under the warrantor's vehicle protection product warranty. The warrantor shall file a true and correct copy of the warranty reimbursement insurance policy with the director. The policy shall contain the provisions required in section 385.415; or

(2) Maintaining a net worth or stockholder's equity of fifty million dollars. The warrantor shall provide the director with a copy of the warrantor's or warrantor's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange

Commission within the last calendar year, or if the warrantor does not file with the Securities and Exchange Commission, a copy of the warrantor or the warrantor's parent company's audited financial statements that shows a net worth of the warrantor or its parent company of at least fifty million dollars. If the warrantor's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the warrantor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the warrantor relating to warranties issued by the warrantor in this state. The financial information filed under this subdivision shall be confidential as a trade secret of the entity filing the information and not subject to public disclosure if the entity is not required to file with the Securities and Exchange Commission.

385.415. WARRANTY REIMBURSEMENT INSURANCE POLICY REQUIREMENTS. — No warranty reimbursement insurance policy shall be issued, sold, or offered for sale in this state unless the policy meets the following conditions:

(1) The policy states that the issuer of the policy will reimburse or pay on behalf of the vehicle protection product warrantor all covered sums which the warrantor is legally obligated to pay or will provide that all service that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the provisions of the insured warranties sold by the warrantor;

(2) The policy states that in the event payment due under the terms of the warranty is not provided by the warrantor within sixty days after proof of loss has been filed according to the terms of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement;

(3) The policy provides that a warranty reimbursement insurance company that insures a warranty shall be deemed to have received payment of the premium if the warranty holder paid for the vehicle protection product and insurer's liability under the policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer; and

(4) The policy has the following provisions regarding cancellation of the policy:

(a) The issuer of a reimbursement insurance policy shall not cancel such policy until a notice of cancellation in writing has been mailed or delivered to the director and each insured warrantor sixty days prior to cancellation of the policy;

(b) The cancellation of a reimbursement insurance policy shall not reduce the issuer's responsibility for vehicle protection products sold prior to the date of cancellation; and

(c) In the event an insurer cancels a policy that a warrantor has filed with the director, the warrantor shall do either of the following:

a. File a copy of a new policy with the director, before the termination of the prior policy; or

b. Discontinue offering warranties as of the termination date of the policy until a new policy becomes effective and is accepted by the director.

385.418. WARRANTY REQUIREMENTS. — 1. Every vehicle protection product warranty shall be written in clear, understandable language and shall be printed or typed in an easy-to-read point size and font and shall not be issued, sold, or offered for sale in the state unless the warranty:

(1) States that the obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy if the warrantor elects to meet its financial responsibility obligations under subdivision (1) of section 385.412, or states the obligations of the warrantor under this warranty are backed by the full faith and credit of the warrantor if the warrantor elects to meet its financial responsibility under subdivision (2) of section 385.412;

(2) States that in the event a warranty holder must make a claim against a party other than the warrantor, the warranty holder is entitled to make a direct claim against the warranty reimbursement insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within sixty days after proof of loss has been filed with the warrantor, if the warrantor elects to meet its financial responsibility obligations under subdivision (1) of section 385.412;

(3) States the name and address of the insurer of the warranty reimbursement insurance policy, and this information need not be preprinted on the warranty form but may be stamped on the warranty, if the warrantor elects to meet its financial responsibility obligations under subdivision (1) of section 385.412;

(4) Identifies the warrantor, the seller, and the warranty holder;

(5) Sets forth the total purchase price of the vehicle protection product warranty and the terms under which it is to be paid; however, the purchase price is not required to be preprinted on the vehicle protection product warranty and may be negotiated with the consumer at the time of sale;

(6) Sets forth the procedure for making a claim, including a telephone number;

(7) States the existence of a deductible amount, if any;

(8) Specifies the payments or performance to be provided under the warranty including payments for incidental costs, the manner of calculation or determination of payments or performance, and any limitations, exceptions, or exclusions;

(9) Sets forth all of the obligations and duties of the warranty holder such as the duty to protect against further damage to the vehicle, the obligation to notify the warrantor in advance of any repair, or other similar requirements, if any;

(10) Sets forth any terms, restrictions, or conditions governing transferability of the warranty, if any; and

(11) Contains a disclosure that reads substantially as follows: "This agreement is a product warranty and is not insurance".

2. At the time of sale, the seller or warrantor shall provide to the purchaser:

(1) A copy of the vehicle protection product warranty; or

(2) A receipt or other written evidence of the purchase of the vehicle protection product and a copy of the warranty within thirty days of the date of purchase.

385.421. WARRANTY TO CONTAIN CANCELLATION TERMS AND CONDITIONS — WRITTEN NOTICE OF CANCELLATION REQUIRED. — 1. No vehicle protection product may be sold or offered for sale in this state unless the vehicle protection product warranty states the terms and conditions governing the cancellation of the sale and warranty, if any.

2. The warrantor may only cancel the warranty if the warranty holder does any of the following:

(1) Fails to pay for the vehicle protection product;

(2) Makes a material misrepresentation to the seller or warrantor;

(3) Commits fraud; or

(4) Substantially breaches the warranty holder's duties under the warranty.

3. A warrantor canceling a warranty shall mail written notice of cancellation to the warranty holder at the last known address of the warranty holder in the warrantor's records at least thirty days prior to the effective date of the cancellation. The notice shall state the effective date of the cancellation and the reason for the cancellation.

385.424. PROHIBITED USE OF NAMES AND TERMS. — 1. Unless licensed as an insurance company, a vehicle protection product warrantor shall not use in its name, contracts, or literature the words "insurance", "casualty", "surety", "mutual", or any other word that is descriptive of the insurance, casualty, or surety business or that is deceptively similar to the name or description of any insurance or surety corporation or any other vehicle

protection product warrantor. A warrantor may use the term "guaranty" or a similar word in the warrantor's name. A warrantor or its representative shall not in its vehicle protection product warranties or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell, or advertisement of a vehicle protection product warranty.

2. A vehicle protection product seller or warrantor may not require as a condition of financing that a retail purchaser of a motor vehicle purchase a vehicle protection product.

385.427. RECORDKEEPING REQUIREMENTS. — 1. All vehicle protection product warrantors shall keep accurate accounts, books, and records concerning transactions regulated under sections 385.400 to 385.436.

2. A vehicle protection product warrantor's accounts, books, and records shall include:

- (1) Copies of all vehicle protection product warranties;
- (2) The name and address of each warranty holder; and
- (3) Claims files which shall contain at least the dates, amounts, and descriptions of all receipts, claims, and expenditures.

3. A vehicle protection product warrantor shall retain all required accounts, books, and records pertaining to each warranty holder for at least three years after the specified period of coverage has expired. A warrantor discontinuing business in the state shall maintain its records until it furnishes the director satisfactory proof that it has discharged all obligations to warranty holders in this state.

4. Vehicle protection product warrantors shall make all accounts, books, and records concerning transactions regulated under sections 385.400 to 385.436 available to the director for examination.

385.430. ENFORCEMENT AUTHORITY — ADMINISTRATIVE ORDERS PERMITTED. — 1. The director may conduct examinations of warrantors, administrators, or other persons to enforce sections 385.400 to 385.436 and protect warranty holders in this state. Upon request of the director, a warrantor shall make available to the director all accounts, books, and records concerning vehicle protection products provided by the warrantor that are necessary to enable the director to reasonably determine compliance or noncompliance with sections 385.400 to 385.436.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, or a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of these sections is a level two violation under section 374.049, RSMo.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of these sections is a level two violation under section 374.049, RSMo.

385.433. RULEMAKING AUTHORITY. — The director may promulgate rules and regulations to implement the provisions of sections 385.400 to 385.436. Such rules and regulations shall include disclosures for the benefit of the warranty holder, record keeping, and procedures for public complaints. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2009, shall be invalid and void.

385.436. ADMISSIBILITY OF FAILURE TO COMPLY EVIDENCE. — Sections 385.400 to 385.436 applies to all vehicle protection products sold or offered for sale on or after January 1, 2009. The failure of any person to comply with sections 385.400 to 385.436 prior to January 1, 2009, shall not be admissible in any court proceeding, administrative proceeding, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper. The adoption of sections 385.400 to 385.436 does not imply that a vehicle protection product warranty was insurance prior to January 1, 2009. The penalty provision of sections 385.400 to 385.436 do not apply to any violation of sections 385.400 to 385.436 relating to or in connection with the sale or failure to disclose in a retail installment contract or lease, or contract or agreement that provides for payments under a vehicle protection product warranty so long as the sale of such product, contract, or agreement was otherwise disclosed to the purchaser in writing at the time of the purchase or lease.

390.021. UCR AGREEMENT — DEFINITIONS — COMMISSION AUTHORITY — PRECEDENCE OF AGREEMENT — FILING OF FORMS AND REGISTRATION FEE-ENFORCEMENT AUTHORITY — AUTHORIZED EXEMPTIONS. — 1. The provisions of this section shall be applicable, notwithstanding any provisions of section 390.030 to the contrary.

2. As used in chapter 622, RSMo, and in this section, except when the context clearly requires otherwise, the following terms shall mean:

(1) "UCR implementing regulations", includes the regulations issued by the United States Secretary of Transportation under 49 U.S.C.A. Section 13908, the rules and regulations issued by the board of directors of the Unified Carrier Registration (UCR) plan under 49 U.S.C.A. Section 14504a, and the administrative rules adopted by the state highways and transportation commission under this section;

(2) "Unified Carrier Registration Act", or "UCR Act", sections 4301 to 4308 of the Unified Carrier Registration Act of 2005, within subtitle C of title IV of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users" or "SAFETEA-LU", Public Law 109-59 (119 Stat. 1761), as those sections have been and periodically may be amended.

3. Except when the context clearly requires otherwise, the definitions of words in 49 U.S.C.A. Sections 13102, 13908, and 14504a shall apply to and determine the meaning of those words as used in this section.

4. In carrying out and being subject to the provisions of the UCR Act, the Unified Carrier Registration (UCR) agreement, the UCR implementing regulations, and this section, but notwithstanding any other provisions of law to the contrary, the state highways and transportation commission may:

(1) Submit to the proper federal authorities, amend and carry out a state plan to qualify as a base-state and to participate in the UCR plan and administer the UCR agreement, and take other necessary actions as the designated representative of the state of Missouri so that:

(a) Missouri domiciled entities who must register and pay UCR registration fees are not required to register and pay those fees in a base-state other than the state of Missouri;

(b) The state of Missouri does not forfeit UCR registration fee revenues; and

(c) The state of Missouri may maintain its eligibility to receive the maximum allowable allocations of revenues derived under the UCR agreement;

(2) Administer the UCR registration of Missouri domiciled motor carriers, motor private carriers, brokers, freight forwarders and leasing companies, and such persons domiciled in nonparticipating states who have designated this state as their base-state under the UCR Act;

(3) Receive, collect, process, deposit, transfer, distribute, and refund UCR registration fees relating to any of the persons and activities described in this section. Notwithstanding any provisions of law to the contrary, these UCR registration fees collected by the commission are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and the commission shall transmit these funds to the state department of revenue for deposit to the credit of the state highways and transportation department fund. The commission shall, from time to time, direct the payment of, and the director of revenue shall pay, the fees so deposited, in accordance with the provisions of the UCR Act, the UCR agreement, and the UCR implementing regulations. The director of revenue shall credit all income derived from the investment of these funds to the state highways and transportation department fund;

(4) Exercise all other powers, duties, and functions the UCR Act requires of or allows a participating state or base-state;

(5) Promulgate administrative rules and issue specific orders relating to any of the persons and activities described in this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void;

(6) Enter into agreements with any agencies or officers of the United States, or of any state that participates or intends to enter into the UCR agreement; and

(7) Delegate any or all of the powers, duties, and functions of the commission under this section to any agent or contractor.

5. After the commission has entered into the UCR plan on behalf of this state, the requirements in the UCR agreement shall take precedence over any conflicting requirements under chapter 622, RSMo, or this chapter.

6. Notwithstanding any other provisions of law to the contrary, every motor carrier, motor private carrier, broker, freight forwarder, and leasing company that has its principal place of business within this state, and every such person who has designated this state as the person's base-state under the provisions of the UCR Act, shall timely complete and file with the state highways and transportation commission all the forms required by the UCR agreement and the UCR implementing regulations, and shall pay the required UCR registration fees to the commission.

7. All powers of the commission under section 226.008, RSMo, are hereby made applicable to the enforcement of this section with reference to any person subject to any

provision of this section. The chief counsel shall not be required to exhaust any administrative remedies before commencing any enforcement actions under this section. The provisions of chapter 622, RSMo, shall apply to and govern the practice and procedures before the courts in those actions.

8. Except as required by the UCR Act, the UCR agreement, or the UCR implementing regulations, the provisions of this section and the rules adopted by the commission under this section shall not be construed as exempting any motor carrier, or any person controlled by a motor carrier, from any of the requirements of chapter 622, RSMo, or this chapter, relating to the transportation of passengers or property in intrastate commerce.

9. Notwithstanding any other provision of this section to the contrary, Missouri elects to not apply the provisions of the UCR Act, the UCR Agreement, and the UCR implementing regulations to motor carriers and motor private carriers that operate solely in intrastate commerce transporting farm or dairy products, including livestock, from a farm, or property from farm to farm, or stocker and feeder livestock from farm to farm, or from market to farm.

390.372. MOTOR CARRIER CONTRACTS, HOLD HARMLESS PROVISIONS VOID AND UNENFORCEABLE — DEFINITIONS. — 1. Notwithstanding any provision of law to the contrary, a provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this state and is void and unenforceable.

2. For the purposes of this section, the following terms shall mean:

(1) "Motor carrier transportation contract", a contract, agreement, or understanding covering:

(a) The transportation of property for compensation or hire by the motor carrier;

(b) The entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or

(c) A service incidental to activity described in paragraphs (a) and (b) of this subdivision, including but not limited to, storage of property;

"Motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, or other intermodal equipment;

(2) "Promisee", the promisee and any agents, employees, servants, or independent contractors who are directly responsible to the promisee except for motor or rail carriers who are party to a motor carrier transportation contract, and such motor or rail carrier's agents, employees, servants, or independent contractors directly responsible to such motor or rail carriers.

577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2)

or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(4) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, RSMo; and

(5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior [convictions] **conviction, plea of guilty, or finding of guilty in an intoxication-related traffic offense** shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A [conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a] conviction or a plea of guilty or a finding of guilty followed by **incarceration, a fine**, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination

thereof in **any intoxication-related traffic offense in a state, county, municipal court, or any combination thereof**, shall be treated as a prior [conviction] **plea of guilty or finding of guilty for purposes of this section.**

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — NOTICE, REPORT OF PEACE OFFICER, CONTENTS — REVOCATION OF LICENSE, HEARING — EVIDENCE, ADMISSIBILITY — REINSTATEMENT OF LICENSES — SUBSTANCE ABUSE TRAFFIC OFFENDER PROGRAM — ASSIGNMENT RECOMMENDATIONS, JUDICIAL REVIEW — FEES. — 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

- (1) That the officer has:
 - (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or
 - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
 - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;
- (2) That the person refused to submit to a chemical test;
- (3) Whether the officer secured the license to operate a motor vehicle of the person;
- (4) Whether the officer issued a fifteen-day temporary permit;
- (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and
- (6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an

order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

- (1) Whether or not the person was arrested or stopped;
- (2) Whether or not the officer had:
 - (a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or
 - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
 - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and
- (3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the

department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked more than once for violation of the provisions of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.

11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked and the person shall be guilty of a class A misdemeanor.

577.600. COURT MAY REQUIRE IGNITION INTERLOCK DEVICE, WHEN, COMPLIANCE — USE OF OTHER VEHICLE — PENALTY. — 1. In addition to any other provisions of law, a court may require that any person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as defined in section 577.023, and a court shall require that any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device for a period of not less than [one month] **six months** from the date of reinstatement of the person's driver's license. In addition, any court authorized to grant a limited driving privilege under section 302.309, RSMo, to any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense shall require the use of an ignition interlock device on all vehicles operated by the person as a required condition of the limited driving privilege. **These requirements shall be in addition to any other provisions of this chapter or chapter 302, RSMo, requiring installation and maintenance of an ignition interlock device.** Any person required to use an ignition interlock

device, **either under the provisions of this chapter or chapter 302, RSMo**, shall comply with [the court order,] **such requirement** subject to the penalties provided by this section.

2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to have had that person's driving privilege restricted as provided in subsection 1 of this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted as provided in subsection 1 of this section shall notify any other person who rents, leases or loans a motor vehicle to that person of the driving restriction imposed pursuant to this section.

3. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor.

577.602. COST OF INTERLOCK DEVICE MAY REDUCE AMOUNT OF FINE — VEHICLES AFFECTED — PROOF OF COMPLIANCE, WHEN, REPORT — MAINTENANCE COST — CALIBRATION CHECKS. — 1. If a court imposes a fine and requires the use of an ignition interlock device for the same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

2. If the court requires the use of an ignition interlock device, it shall order the installation of the device on any vehicle which the offender operates during the period of probation or limited driving privilege.

3. If the court imposes the use of an ignition interlock device on a person having full or limited driving privileges, the court shall require the person to provide proof of compliance with the order to the court or the probation officer within thirty days of this court's order or sooner, as required by the court, **in addition to any proof required to be filed with the director of revenue under the provisions of this chapter or chapter 302, RSMo**. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation or limited driving privilege.

4. Nothing in sections 577.600 to 577.614 shall be construed to authorize a person to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the person has obtained a limited driving privilege or restricted driving privilege under other provisions of law.

5. The person whose driving privilege is restricted pursuant to section 577.600 shall report to the court or the probation officer at least once annually, or more frequently as the court may order, on the operation of each ignition interlock device in the person's vehicle or vehicles. Such person shall be responsible for the cost and maintenance of the ignition interlock device. If such device is broken, destroyed or stolen, such person shall also be liable for the cost of replacement of the device.

6. The court may require a person whose driving privilege is restricted under section 577.600 to report to any officer appointed by the court in lieu of a probation officer.

7. The court shall require periodic calibration checks that are needed for the proper operation of the ignition interlock device.

577.612. CIRCUMVENTION OF OPERATION — PROHIBITED ACTIVITIES — PENALTY. —

1. It is unlawful for any person whose driving privilege is restricted pursuant to [section 577.600] **the provisions of this chapter or chapter 302, RSMo**, to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

2. It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to [section 577.600] **the provisions of this chapter or chapter 302, RSMo**.

3. It is unlawful to tamper with, or circumvent the operation of, an ignition interlock device.

4. Any person who violates any provision of this section is guilty of a class A misdemeanor.

590.050. CONTINUING EDUCATION REQUIREMENTS. — 1. The POST commission shall establish requirements for the continuing education of all peace officers. Peace officers who make traffic stops shall be required to receive [annual training] **three hours of training within the law enforcement continuing education three-hour reporting period** concerning the prohibition against racial profiling and such training shall promote understanding and respect for racial and cultural differences and the use of effective, noncombative methods for carrying out law enforcement duties in a racially and culturally diverse environment.

2. The director shall license continuing education providers and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision of the director pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. The costs of continuing law enforcement education shall be reimbursed in part by moneys from the peace officer standards and training commission fund created in section 590.178, subject to availability of funds, except that no such funds shall be used for the training of any person not actively commissioned or employed by a county or municipal law enforcement agency.

4. The director may engage in any activity intended to further the professionalism of peace officers through training and education, including the provision of specialized training through the department of public safety.

SECTION B. EFFECTIVE DATE.— The enactment of sections 385.400 to 385.436 of this act shall become effective January 1, 2009.

SECTION C. EFFECTIVE DATE — The repeal and reenactment of sections 302.010, 302.060, 302.304, 302.309, 302.525, 577.023, 577.041, 577.600, 577.602, and 577.612 of section A of this act shall become effective on July 1, 2009.

Approved July 3, 2008

SB 931 [CCS HCS SS SCS SB 931]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits the Department of Agriculture from participating in the National Animal Identification System (NAIS) without specific statutory authorization to do so

AN ACT to repeal sections 135.800, 135.805, 142.028, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 278.070, 281.260, 340.337, 340.341, 340.375, 340.381, 340.384, 340.387, 340.390, 340.393, 340.396, 340.399, 340.402, 340.405, 348.430, 348.432, and 348.505, RSMo, and to enact in lieu thereof thirty-seven new sections relating to the administration of agriculture incentives and programs.

SECTION

A. Enacting clause.

135.710. Tax credit authorized, procedure — director of revenue duties — rulemaking authority — sunset provision.

135.800. Citation — definitions.

- 135.805. Certain information to be submitted annually, who, time period — due date of reporting requirements — requirements to apply to certain recipients, when — applicant in compliance, when, written notification, when, records available for review — effective date — names of recipients to be made public.
- 142.028. Definitions — Missouri qualified producer incentive fund created, purpose — administration of fund — grants to producers, amount, computation, paid when — application for grant, content, qualifications, bonding — rules authorized — limitation on grants, when.
- 144.053. Farm machinery and equipment exempt from state and local sales and use tax, when.
- 144.063. Fencing materials and motor fuel used for agricultural purposes exempt from state and local sales and use tax.
- 260.546. Emergency assistance — cost, how paid — cost statement, contents — payment, when — amount, appeal procedure — state fund to pay cost but repayment required.
- 261.035. Agriculture business development fund created — purpose — not to lapse.
- 261.230. AgriMissouri marketing program and agricultural products by category, rules authorized, director's duty.
- 261.235. AgriMissouri fund, created, purposes, lapse of fund into general revenue prohibited — advisory commission, created, purposes, duties, membership — trademark fees.
- 261.239. Division to create web site to foster marketing of Missouri agricultural products.
- 263.232. Eradication and control of the spread of teasel, kudzu vine, and spotted knapweed.
- 265.200. Powers and duties of Missouri state horticultural society.
- 267.168. Voluntary program may be supported by state — mandated participation prohibited — withdrawal permitted — governor may waive this section, when.
- 278.070. Definitions.
- 281.260. Registration of pesticides — renewal — fees — powers of director — cancellation of registration on notice and hearing — experimental use permit issued when — revocation.
- 340.337. Definitions.
- 340.341. Eligibility standards for loan repayment program — rulemaking authority.
- 340.375. Department to administer loan program — advisory panel to be appointed, members, duties — rulemaking authority.
- 340.381. Program and fund created, use of moneys.
- 340.384. Application procedure — amount of award — number of applicants to be awarded.
- 340.387. Contracts for assistance — repayment — forgiveness of loan, when.
- 340.390. Failure to meet employment obligations, repayment of loan required — deferral on repayment permitted, when.
- 340.393. Action to recover amounts due permitted.
- 340.396. Contracts not required, when — expiration date.
- 348.230. Linked deposit loans for dairy cows, first year of interest to be paid by authority — fee authorized.
- 348.235. Dairy business planning grants authorized — application procedure, fee — limit on grant — rulemaking authority.
- 348.430. Agricultural product utilization contributor tax credit — definitions — requirements — limitations.
- 348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations.
- 348.505. Tax credit for family farm livestock loan program, procedure.
- 348.515. Recognition of benefit of providing assistance to certain family farm operations.
- 348.518. Livestock feed and crop input loan guarantee program established — rulemaking authority.
- 348.521. Authority to issue certificates of guaranty — eligible lender defined — fee authorized — limit on outstanding guaranteed loans.
- 348.524. Livestock feed and crop input loan guarantee fund established — use of moneys.
- 348.527. Investment of fund moneys.
- 348.530. Eligibility for loans — rulemaking authority.
- 348.533. Policy for collection and recovery of loans — action authorized to recover amounts due.
- 340.399. Deferral of interest and principal payments, when.
- 340.402. Action to recover amounts due authorized.
- 340.405. Limitation on requirements — expiration date of program.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.800, 135.805, 142.028, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 278.070, 281.260, 340.337, 340.341, 340.375, 340.381, 340.384, 340.387, 340.390, 340.393, 340.396, 340.399, 340.402, 340.405, 348.430, 348.432, and 348.505, RSMo, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 135.710, 135.800, 135.805, 142.028, 144.053, 144.063, 260.546, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 267.168, 278.070, 281.260, 340.337, 340.341, 340.375, 340.381, 340.384, 340.387, 340.390, 340.393, 340.396, 348.230, 348.235, 348.430, 348.432, 348.505, 348.515, 348.518, 348.521, 348.524, 348.527, 348.530, and 348.533, to read as follows:

135.710. TAX CREDIT AUTHORIZED, PROCEDURE — DIRECTOR OF REVENUE DUTIES — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. As used in this section, the following terms mean:

(1) "Alternative fuels", any motor fuel at least seventy percent of the volume of which consists of one or more of the following:

- (a) Ethanol;
- (b) Natural gas;
- (c) Compressed natural gas;
- (d) Liquified natural gas;
- (e) Liquified petroleum gas;
- (f) Any mixture of biodiesel and diesel fuel, without regard to any use of kerosene;
- (g) Hydrogen;

(2) "Department", the department of natural resources;

(3) "Eligible applicant", a business entity that is the owner of a qualified alternative fuel vehicle refueling property;

(4) "Qualified alternative fuel vehicle refueling property", property in this state owned by an eligible applicant and used for storing alternative fuels and for dispensing such alternative fuels into fuel tanks of motor vehicles owned by such eligible applicant or private citizens which, if constructed after August 28, 2008, was constructed with at least fifty-one percent of the costs being paid to qualified Missouri contractors for the:

(a) Fabrication of premanufactured equipment or process piping used in the construction of such facility;

(b) Construction of such facility; and

(c) General maintenance of such facility during the time period in which such facility receives any tax credit under this section.

If no qualified Missouri contractor is located within seventy-five miles of the property, the requirement that fifty-one percent of the costs shall be paid to qualified Missouri contractors shall not apply;

(5) "Qualified Missouri contractor", a contractor whose principal place of business is located in Missouri and has been located in Missouri for a period of not less than five years.

2. For all tax years beginning on or after January 1, 2009, but before January 1, 2012, any eligible applicant who installs and operates a qualified alternative fuel vehicle refueling property shall be allowed a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or due under chapter 147, RSMo, or chapter 148, RSMo, for any tax year in which the applicant is constructing the refueling property. The credit allowed in this section per eligible applicant shall not exceed the lesser of twenty thousand dollars or twenty percent of the total costs directly associated with the purchase and installation of any alternative fuel storage and dispensing equipment on any qualified alternative fuel vehicle refueling property, which shall not include the following:

(1) Costs associated with the purchase of land upon which to place a qualified alternative fuel vehicle refueling property;

(2) Costs associated with the purchase of an existing qualified alternative fuel vehicle refueling property; or

(3) Costs for the construction or purchase of any structure.

3. Tax credits allowed by this section shall be claimed by the eligible applicant at the time such applicant files a return for the tax year in which the storage and dispensing facilities were placed in service at a qualified alternative fuel vehicle refueling property, and shall be applied against the income tax liability imposed by chapter 143, RSMo, chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law have

been applied. The cumulative amount of tax credits which may be claimed by eligible applicants claiming all credits authorized in this section shall not exceed the following amounts:

- (1) In taxable year 2009, three million dollars;
- (2) In taxable year 2010, two million dollars; and
- (3) In taxable year 2011, one million dollars.

4. If the amount of the tax credit exceeds the eligible applicant's tax liability, the difference shall not be refundable. Any amount of credit that an eligible applicant is prohibited by this section from claiming in a taxable year may be carried forward to any of such applicant's two subsequent taxable years. Tax credits allowed under this section may be assigned, transferred, sold, or otherwise conveyed.

5. An alternative fuel vehicle refueling property, for which an eligible applicant receives tax credits under this section, which ceases to sell alternative fuel shall cause the forfeiture of such eligible applicant's tax credits provided under this section for the taxable year in which the alternative fuel vehicle refueling property ceased to sell alternative fuel and for future taxable years with no recapture of tax credits obtained by an eligible applicant with respect to such applicant's tax years which ended before the sale of alternative fuel ceased.

6. The director of revenue shall establish the procedure by which the tax credits in this section may be claimed, and shall establish a procedure by which the cumulative amount of tax credits is apportioned equally among all eligible applicants claiming the credit. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that eligible applicants can claim all the tax credits possible up to the cumulative amount of tax credits available for the taxable year. No eligible applicant claiming a tax credit under this section shall be liable for any interest or penalty for filing a tax return after the date fixed for filing such return as a result of the apportionment procedure under this subsection.

7. Any eligible applicant desiring to claim a tax credit under this section shall submit the appropriate application for such credit with the department. The application for a tax credit under this section shall include any information required by the department. The department shall review the applications and certify to the department of revenue each eligible applicant that qualifies for the tax credit.

8. The department and the department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

9. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.800. CITATION—DEFINITIONS. — 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited as the "Tax Credit Accountability Act of 2004".

2. As used in sections 135.800 to 135.830, the following terms mean:

(1) "Administering agency", the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) "Agricultural tax credits", the agricultural product utilization contributor tax credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit created pursuant to section 348.432, RSMo, **the family farm breeding livestock loan tax credit created under section 348.505, RSMo, the qualified beef tax credit created under section 135.679,** and the wine and grape production tax credit created pursuant to section 135.700;

(3) "All tax credit programs", the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit created pursuant to section 135.535, and the film production tax credit created pursuant to section 135.750;

(5) "Community development tax credits", the neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo, and the transportation development tax credit created pursuant to section 135.545;

(6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

(7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, and the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section 260.285, RSMo;

(9) "Housing tax credits", the neighborhood preservation tax credit created pursuant to sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(10) "Recipient", the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805;

(11) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section 135.490;

(12) "Training and educational tax credits", the community college new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo, the skills development account tax credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit created pursuant to section 620.1560, RSMo, and the sponsorship and mentoring tax credit created pursuant to section 135.348.

135.805. CERTAIN INFORMATION TO BE SUBMITTED ANNUALLY, WHO, TIME PERIOD — DUE DATE OF REPORTING REQUIREMENTS — REQUIREMENTS TO APPLY TO CERTAIN RECIPIENTS, WHEN — APPLICANT IN COMPLIANCE, WHEN, WRITTEN NOTIFICATION, WHEN, RECORDS AVAILABLE FOR REVIEW — EFFECTIVE DATE — NAMES OF RECIPIENTS TO BE MADE PUBLIC. — 1. A recipient of a community development tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the title and location of the corresponding project, the estimated or actual time period for completion of the project, and all geographic areas impacted by the project.

2. A recipient of a redevelopment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected or actual project cost, labor cost, and date of completion.

3. A recipient of a business recruitment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated or actual project cost.

4. A recipient of a training and educational tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated or actual project cost, and the number of employees and number of students served as of such annual update.

5. A recipient of a housing tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section 135.802, and the projected or actual labor cost and completion date of the project.

6. A recipient of an entrepreneurial tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

7. A recipient of an agricultural tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity **or new generation cooperative** then the new generation processing entity **or new generation cooperative**, and not

the recipient, shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of the facility.

8. A recipient of an environmental tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

9. The reporting requirements established in this section shall be due annually on June thirtieth of each year. No person or entity shall be required to make an annual report until at least one year after the credit issuance date.

10. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

11. Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections 135.802 to 135.810. The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office for review by the department of economic development.

12. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

142.028. DEFINITIONS — MISSOURI QUALIFIED PRODUCER INCENTIVE FUND CREATED, PURPOSE — ADMINISTRATION OF FUND — GRANTS TO PRODUCERS, AMOUNT, COMPUTATION, PAID WHEN — APPLICATION FOR GRANT, CONTENT, QUALIFICATIONS, BONDING — RULES AUTHORIZED — LIMITATION ON GRANTS, WHEN. — 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", [one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products] **a fuel which meets ASTM International specification number D 4806 or subsequent specifications for blending with gasoline for use as automotive spark-ignition engine fuel and where the ethanol is made from cereal grains, cereal grain by-products, or qualified biomass;**

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the [American Society for Testing and Materials -] **ASTM International specification number [D-439] D 4814;**

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes, and which has made formal application, posted a bond, and conformed to the requirements of this section;

(4) "Professional forester", **any individual who holds a bachelor of science degree in forestry from a regionally accredited college or university with a minimum of two years of professional forest management experience;**

(5) "Qualified biomass", **any wood-derived organic material harvested in accordance with a site specific forest management plan focused for long-term forest sustainability**

developed by a professional forester and qualified, in consultation with the conservation commission, by the Missouri agricultural and small business development authority.

2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty-month time period. The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products **or qualified biomass** for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any fiscal year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products **or qualified biomass** in the fiscal year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products **or qualified biomass** in the fiscal year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.

4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days prior to the first day of the month for which the grant is sought. The application shall include:

- (1) The location of the Missouri qualified fuel ethanol producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;
- (3) The number of bushels of Missouri agricultural commodities **or green weight tons of qualified biomass** used by the Missouri qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;
- (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;
- (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.

5. The director of the department of agriculture, in consultation with the department of revenue **and the department of conservation**, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

7. Notwithstanding any other provision of this section to the contrary, beginning January 1, 2009, through December 31, 2019, the economic subsidies provided under this section to Missouri qualified fuel ethanol producers of fuel ethanol made from qualified biomass shall only be provided to two qualified fuel ethanol producers and shall not cumulatively exceed seven and one-half million dollars per qualified fuel ethanol producer. Prior to January 1, 2009, and after December 31, 2019, Missouri qualified fuel ethanol producers of fuel ethanol made from qualified biomass shall be ineligible for economic subsidies under this section.

144.053. FARM MACHINERY AND EQUIPMENT EXEMPT FROM STATE AND LOCAL SALES AND USE TAX, WHEN. — 1. As used in this section, "machinery and equipment" means new or used farm tractors and such other new or used machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for the planting, harvesting, processing, or transporting of a forestry product.

2. Notwithstanding any other provision of law to the contrary, for purposes of department of revenue administrative interpretation, all machinery and equipment used solely for the planting, harvesting, processing, or transporting of a forestry product shall be considered farm machinery, and shall be exempt from state and local sales and use tax, as provided for other farm machinery in section 144.030. For purposes of the exemption in section 144.063, the planting, harvesting, processing, or transporting of a forestry product is deemed an agricultural purpose.

144.063. FENCING MATERIALS AND MOTOR FUEL USED FOR AGRICULTURAL PURPOSES EXEMPT FROM STATE AND LOCAL SALES AND USE TAX. — In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all sales of fencing materials used for agricultural purposes, and the purchase of motor fuel, as defined in section 142.800, RSMo, therefor which is used for agricultural purposes.

260.546. EMERGENCY ASSISTANCE — COST, HOW PAID — COST STATEMENT, CONTENTS — PAYMENT, WHEN — AMOUNT, APPEAL PROCEDURE — STATE FUND TO PAY COST BUT REPAYMENT REQUIRED. — 1. In the event that a hazardous substance release occurs for which a political subdivision or volunteer fire protection association as defined in section 320.300, RSMo, provides emergency services, the person having control over a hazardous substance shall be liable for such reasonable [cleanup] and necessary costs incurred by the political subdivision or volunteer fire protection association **while securing an emergency situation or cleaning up any hazardous substances.** Such liability includes the cost of materials[,] and supplies [and contractual services] actually used to secure [an] the emergency situation. The liability may also include the cost for contractual services which are not routinely provided by the department or political subdivision or volunteer fire protection association. Such liability shall not include the cost of normal services which otherwise would have been provided. Such liability shall not include budgeted administrative costs or the costs for duplicate services if multiple response teams are requested by the department or political subdivision unless, in the

opinion of the department or political subdivision, duplication of service was required to protect the public health and environment. [Such liability shall be established upon receipt by] **No later than sixty days after the completion of the cleanup of the release of a hazardous substance, the political subdivision or volunteer fire protection association shall submit to the person having control of the spilled hazardous substance [of] an itemized statement of costs provided by the political subdivision. The statement of costs shall include but not be limited to an explanation of why the costs were reasonable and necessary. The explanation shall describe how such costs were not duplicative, did not include costs for normal services that would otherwise have been provided, and why contractual services, if any, were utilized in the response to the emergency situation. Response and clean-up costs are eligible for reimbursement if the initial response and assessment to a release of a hazardous substance was based on best practices and in a manner that any prudent political subdivision or volunteer fire protection association would respond to a release of a hazardous substance. Such response and clean-up costs may also include the costs of contractual services which are not routinely provided by the department or political subdivision or volunteer fire protection association. Such costs shall not include the costs of normal services which otherwise would have been provided.**

2. Full payment shall be made within thirty days of receipt of the cost statement unless the person having control over the hazardous substance contests the amount of the costs pursuant to this section. If the person having control over the hazardous substance elects to contest the payment of such costs, [he] **such person** shall file an appeal with the director within thirty days of receipt of the cost statement.

3. Upon receipt of such an appeal, the director shall notify the parties involved of the appeal and collect such evidence from the parties involved as [he] **the director** deems necessary to make a determination of reasonable cleanup costs. **The burden of proof shall be on the political subdivision or volunteer fire protection district to document and justify such costs allowed under subsection 1 of this section.** Within [thirty] **sixty** days of notification of the appeal, the director shall notify the parties of his **or her** decision. The director shall direct the person having control over a hazardous substance to pay those costs [he] **the director** finds to be reasonable and appropriate. The determination of the director shall become final thirty days after receipt of the notice by the parties involved unless prior to such date one of the involved parties files a petition for judicial review pursuant to chapter 536, RSMo.

4. The political subdivision or volunteer fire protection association may apply to the department for reimbursement from the hazardous waste fund created in section 260.391 for the costs for which the person having control over a hazardous substance shall be liable if the political subdivision or volunteer fire protection association is able to demonstrate a need for immediate relief for such costs and believes it will not receive prompt payment from the person having control over a hazardous substance. When the liability owed to the political subdivision or volunteer fire protection association by the person having control over a hazardous substance is paid, the political subdivision or volunteer fire protection association shall reimburse the department for any payment it has received from the hazardous waste fund. Such reimbursement to a political subdivision or volunteer fire protection association by the department shall be paid back to the department by the political subdivision or volunteer fire protection association within that time limit imposed by the department notwithstanding failure of the person having control over a hazardous substance to reimburse the political subdivision or volunteer fire protection association within that time.

261.035. AGRICULTURE BUSINESS DEVELOPMENT FUND CREATED — PURPOSE — NOT TO LAPSE. — 1. There is hereby created in the state treasury for the use of the [marketing] **agriculture business development** division of the state department of agriculture a fund to be known as "The [Marketing] **Agriculture Business Development Fund**". All moneys received

by the state department of agriculture for marketing development from any source within the state shall be deposited in the fund.

2. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the state department of agriculture [for purposes of agricultural marketing development] and for no other purposes.

3. The unexpended balance in the [marketing] **agriculture business** development fund at the end of the biennium shall not be transferred to the ordinary revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

261.230. AGRIMISSOURI MARKETING PROGRAM AND AGRICULTURAL PRODUCTS BY CATEGORY, RULES AUTHORIZED, DIRECTOR'S DUTY. — The director of the department of agriculture shall, for the use of the [marketing] **agriculture business development** division of the department of agriculture, develop and implement rules and regulations by product category for all Missouri agricultural products included in the AgriMissouri marketing program.

261.235. AGRIMISSOURI FUND, CREATED, PURPOSES, LAPSE OF FUND INTO GENERAL REVENUE PROHIBITED — ADVISORY COMMISSION, CREATED, PURPOSES, DUTIES, MEMBERSHIP — TRADEMARK FEES. — 1. There is hereby created in the state treasury for the use of the [marketing] **agriculture business development** division of the state department of agriculture a fund to be known as "The [Missouri Agricultural Products Marketing Development] **AgriMissouri** Fund". All moneys received by the state department of agriculture for Missouri agricultural products marketing development from any source, including trademark fees, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the state department of agriculture, be expended by the [marketing] **agriculture business development** division of the state department of agriculture for promotion of Missouri agricultural products under the AgriMissouri program. The unexpended balance in the [Missouri agricultural products marketing development] **AgriMissouri** fund at the end of the biennium shall not be transferred to the general revenue fund of the state treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

2. There is hereby created within the department of agriculture the "[Citizens] **AgriMissouri** Advisory Commission for Marketing Missouri Agricultural Products". The commission shall establish guidelines, and make recommendations to the director of agriculture, for the use of funds appropriated by the general assembly for the [marketing] **agriculture business development** division of the department of agriculture, and for all funds collected or appropriated to the [Missouri agricultural products marketing development] **AgriMissouri** fund created pursuant to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri trademark associated with Missouri agricultural products that have been approved by the general assembly, and shall advance the following objectives:

(1) Increasing the impact and fostering the effectiveness of local efforts to promote Missouri agricultural products;

(2) Enabling and encouraging expanded advertising efforts for Missouri agricultural products;

(3) Encouraging effective, high-quality advertising projects, innovative marketing strategies, and the coordination of local, regional and statewide marketing efforts;

(4) Providing training and technical assistance to cooperative-marketing partners of Missouri agricultural products.

3. The commission may establish a fee structure for sellers electing to use the AgriMissouri trademark associated with Missouri agricultural products. Under the fee structure:

(1) A seller having gross annual sales greater than two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall remit to the [marketing] **agriculture business development** division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri trademark; and

(2) All sellers having gross annual sales less than or equal to two million dollars per fiscal year of Missouri agricultural products which constitute the final product of a series of processes or activities shall, after three years of selling Missouri agricultural products carrying the AgriMissouri trademark, remit to the [marketing] **agriculture business development** division of the department of agriculture, at such times and in such manner as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of products carrying the AgriMissouri trademark. All trademark fees shall be deposited to the credit of the [Missouri agricultural products marketing development] **AgriMissouri** fund, created pursuant to this section.

4. The [marketing] **agriculture business development** division of the department of agriculture is authorized to promulgate rules consistent with the guidelines and fee structure established by the commission. No rule or portion of a rule shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

5. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate. One member shall be the director of the [market] **agriculture business development** division of the department of agriculture, or his or her representative. At least one member shall be a specialist in advertising; at least one member shall be a specialist in agribusiness; at least one member shall be a specialist in the retail grocery business; at least one member shall be a specialist in communications; at least one member shall be a specialist in product distribution; at least one member shall be a family farmer with expertise in livestock farming; at least one member shall be a family farmer with expertise in grain farming and at least one member shall be a family farmer with expertise in organic farming. Members shall serve for four-year terms, except in the first appointments three members shall be appointed for terms of four years, three members shall be appointed for terms of three years and three members shall be appointed for terms of two years each. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of the term of the member causing the vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by the commission.

6. Commission members shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties on the commission. The division of [market] **agriculture business development** of the department of agriculture shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts and to conduct all other business of the commission. The commission shall meet quarterly and at any such time that it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing to such members prior to the meeting date. A simple majority of the members of the commission shall be present to constitute a quorum. Proxy voting shall not be permitted.

261.239. DIVISION TO CREATE WEB SITE TO FOSTER MARKETING OF MISSOURI AGRICULTURAL PRODUCTS. — The [marketing] **agriculture business development** division of the department of agriculture shall create an Internet web site for the purpose of fostering the marketing of Missouri agricultural products over the Internet.

263.232. ERADICATION AND CONTROL OF THE SPREAD OF TEASEL, KUDZU VINE, AND SPOTTED KNAPWEED. — It shall be the duty of any person or persons, association of persons,

corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands:

(1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated as noxious and dangerous weeds to agriculture, by methods [approved by the Environmental Protection Agency and] in compliance with the manufacturer's label instructions **when chemical herbicides are used for such purposes; [and]**

(2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby designated as a noxious and dangerous weed to agriculture, by methods [approved by the Environmental Protection Agency and] in compliance and conformity with the manufacturer's label instructions **when chemical herbicides are used for such purposes; and**

(3) **To control the spread of spotted knapweed (*Centaurea stoebe* ssp. *micranthos*, including all subspecies), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes.**

265.200. POWERS AND DUTIES OF MISSOURI STATE HORTICULTURAL SOCIETY. — The executive board of the Missouri state horticultural society shall have the power and duty:

(1) To authorize the director to expend, within the appropriations provided therefor, a designated amount of the moneys in the apple merchandising fund in the enforcement of sections 265.130 and 265.140, referring to the labeling of apples.

(2) To authorize the director to expend, within the appropriations provided therefor, a reasonable amount of the moneys in the apple merchandising fund in the administration of sections 265.150 to 265.180, referring to the collection of levies imposed by this chapter.

(3) To authorize the director to apportion, within the appropriations provided therefor, a reasonable amount of the moneys in the apple merchandising fund to the [marketing] **agriculture business** development fund.

(4) To plan and to authorize the director to conduct a campaign of education, advertising, publicity and sales promotion to increase the consumption of Missouri apples and the director may contract for any advertising, publicity and sales promotion service. To accomplish such purpose the director shall have power and it shall be the duty of the director, within the appropriations provided therefor, to disseminate information:

(a) Relating to apples and the importance thereof in preserving the public health, the economy thereof in the diet of the people, and the importance thereof in the nutrition of children;

(b) Relating to the problem of furnishing the consumer at all times with a supply of good quality apples at reasonable prices;

(c) Relating to such other, further and additional information as shall tend to promote increased consumption of Missouri apples, and as may foster a better understanding and more efficient cooperation between producers, dealers and the consuming public.

(5) To cooperate with other state, regional and national agricultural organizations and may at its discretion authorize the director to expend within the appropriations provided therefor moneys of the apple merchandising fund for such purposes.

267.168. VOLUNTARY PROGRAM MAY BE SUPPORTED BY STATE — MANDATED PARTICIPATION PROHIBITED — WITHDRAWAL PERMITTED — GOVERNOR MAY WAIVE THIS SECTION, WHEN. — 1. The state of Missouri may support a voluntary animal identification program. The department of agriculture shall not mandate or otherwise force national animal identification system (NAIS) premises registration without specific statutory authorization from the Missouri general assembly.

2. Any person who participates in the national animal identification system may withdraw from the system at any time. All personal information relating to a participant shall be deleted from the system when the participant withdraws, unless the participant is part of an ongoing disease investigation or disease monitoring or control program.

3. If the provisions of this section interfere with the marketing of Missouri livestock, the governor by executive order may waive the provisions of this section in whole or in part until the completion of the next regular session of the Missouri general assembly or any special session called by the governor at which time the executive order shall expire.

278.070. DEFINITIONS. — As used in sections 278.060 to 278.300, the following words and terms mean:

(1) "Board of soil and water district supervisors" or "soil and water supervisors", the local governing body of a soil and water district, elected or appointed in accordance with the provisions of this law;

(2) "Landowner", any person, firm or corporation who holds title to any lands lying within a district organized or to be organized under the provisions of this chapter. Any landowner may be represented by notarized proxy not more than one year old;

(3) "Land representative", the owner or representative authorized by power of attorney of any farm lying within any area proposed to be established, and subsequently established, as a soil and water district under the provisions of this law, and for the purposes of this law each such farm shall be entitled to representation by a land representative; provided, however, that any land representative must be a taxpayer of the county within which the soil and water district is located;

(4) "Soil and water conservation cost-share program", a state-funded incentive program designed for the purpose of saving the soil of the state through erosion control and abatement;

(5) "Soil and water conservation district" or "soil and water district", a county or one or more of its townships wherein a project for saving the soil and water has been established with the authority and duty and subject to the restrictions herein set forth; and in establishing a soil and water district, if the proposed area is less than the area of the county which contains it, but greater than the area of one township, the additional township or townships to be included in such soil and water district need not be contiguous with the first township or with one another, but there shall be only one soil and water district within the boundaries of the same county; and any farm intersected by a soil and water district boundary shall be considered as lying within that district for purposes of soil and water conservation by that district, except that the soil and water conservation of a farm which lies partly within one soil and water district and partly within another shall be considered the duty of the soil and water district in which the home buildings of such farm are located;

(6) "State soil and water districts commission" or "soil and water commission", the agency created by section 278.080 for the administration of the soil and water conservation districts provided for by this law;

(7) "Subdistrict", "watershed", or "watershed district", as used in sections 278.160 to 278.300, a watershed district, with the exception of section 278.160, whereby subdistrict is specifically used to describe the relationship to an established soil and water conservation district or districts that may be established as a watershed district;

(8) "Township", municipal township and not congressional or survey township.

281.260. REGISTRATION OF PESTICIDES — RENEWAL — FEES — POWERS OF DIRECTOR — CANCELLATION OF REGISTRATION ON NOTICE AND HEARING — EXPERIMENTAL USE PERMIT ISSUED WHEN — REVOCATION. — 1. Every pesticide which is distributed, sold, offered for sale or held for sale within this state, or which is delivered for transportation or transported in intrastate commerce or between points within this state through any point outside of this state, shall be registered in the office of the director, and the registration shall be renewed annually.

2. The registrant shall file with the director a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) The name of the pesticide;

(3) Classification of the pesticide; and

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use.

3. The registrant shall pay an annual fee of fifteen dollars for each product registered in any calendar year or part thereof. The fee shall be deposited in the state treasury to the credit of the general revenue fund. All such registrations shall expire on December thirty-first of any one year, unless sooner canceled. A registration for a special local need pursuant to subsection 6 of this section, which is disapproved by the federal government, shall expire on the effective date of the disapproval.

4. Any registration approved by the director and in effect on the thirty-first day of December for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied, in accord with the provisions of subsection 8 of this section. Forms for reregistration shall be mailed to registrants at least ninety days prior to the expiration date.

5. If the renewal of a pesticide registration is not filed prior to January first of any one year, an additional fee of five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the registration renewal for that pesticide shall be issued; provided, that, such additional fee shall not apply if the applicant furnishes an affidavit certifying that he did not distribute such unregistered pesticide during the period of nonregistration. The payment of such additional fee is not a bar to any prosecution for doing business without proper registry.

6. Provided the state complies with requirements of the federal government to register pesticides to meet special local needs, the director shall require that registrants comply with sections 281.210 to 281.310 and pertinent federal laws and regulations. Where two or more pesticides meet the requirements of this subsection, one shall not be registered in preference to the other.

7. The director may require the submission of the complete formula of any pesticide to approve or deny product registration. If it appears to the director that the composition and efficacy of the pesticide is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of sections 281.210 to 281.310, he shall register the pesticide.

8. Provided the state is authorized to issue experimental use permits, the director may:

(1) Issue an experimental use permit to any person applying for an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under sections 263.269 to 263.380. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed;

(2) Prescribe terms, conditions, and period of time for the experimental permit which shall be under the supervision of the director;

(3) Revoke any experimental permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

9. If it does not appear to the director that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of sections 281.210 to 281.310 or with federal laws, he shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fail to comply with sections 281.210 to 281.310 or with federal laws so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the

pesticide be registered or, in the case of a pesticide that is already registered, that it not be canceled, the director, within ninety days, shall hold a public hearing to determine if the pesticide in question should be registered or canceled. If, after such hearing, it is determined that the pesticide should not be registered or that its registration should be canceled, the director may refuse registration or cancel an existing registration until the required label changes are accomplished. If the pesticide is shown to be in compliance with sections 281.210 to 281.310 and federal laws, the pesticide will be registered. Any appeals resulting from administrative decisions by the director will be taken in accordance with sections 536.100 to 536.140, RSMo.

10. Notwithstanding any other provision of sections 281.210 to 281.310, registration is not required in the case of a pesticide shipped from one plant or warehouse within this state to another plant or warehouse within this state when such plants are operated by the same persons.

11. The director shall not make any lack of essentiality a criterion for denying registration of a pesticide except where none of the labeled uses are present in the state. Where two or more pesticides meet the requirements of sections 281.210 to 281.310, one shall not be registered in preference to the other.

12. Notwithstanding any other provision of law to the contrary, the director may allow a reasonable period of time for the retailer to dispose of existing stocks of pesticides after the manufacturer or distributor has ceased to register the product with the state. The method of disposal shall be determined by the director.

340.337. DEFINITIONS. — As used in sections 340.335 to 340.405, the following terms shall mean:

(1) "Areas of defined need", areas designated by the department pursuant to section 340.339, when services of a large animal veterinarian are needed to improve the veterinarian-patient ratio in the area, or to contribute professional veterinary services to an area of economic impact;

(2) "College", the college of veterinary medicine at the University of Missouri-Columbia;

(3) "Department", the Missouri department of agriculture;

(4) "Director", director of the Missouri department of agriculture;

(5) "Eligible student", a resident who has been accepted as, **or is**, a full-time student at the University of Missouri-Columbia enrolled in the doctor of veterinary medicine degree program at the college of veterinary medicine;

(6) **"Large animal", an animal which is raised, bred, or maintained for its parts or products having a commercial value including, but not limited to, its muscle tissue, organs, fat, blood, manure, bones, milk, wool, hide, pelt, feathers, eggs, semen, or embryos;**

(7) "Large animal veterinarian", veterinarians licensed pursuant to this chapter, engaged in general or large animal practice as their primary focus of practice, and who have a substantial portion of their practice devoted to large animal veterinary medicine;

[(7)] **(8) "Qualified applicant", an eligible student approved by the department for participation in the large animal veterinary student loan program established by sections [340.375 to 340.405] 340.381 to 340.396;**

[(8)] **(9) "Qualified employment", employment as a large animal veterinarian and where a substantial portion of business involves the treatment of large animals on a full-time basis in Missouri located in an area of need as determined by the department of agriculture. Qualified employment shall not include employment with a large-scale agribusiness enterprise, corporation, or entity. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;**

[(9)] **(10) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.**

340.341. ELIGIBILITY STANDARDS FOR LOAN REPAYMENT PROGRAM — RULEMAKING AUTHORITY. — 1. The department shall adopt and promulgate rules establishing standards for determining eligible [persons] **students** for loan repayment pursuant to sections 340.335 to 340.350. Such standards shall include, but are not limited to the following:

- (1) Citizenship or **lawful** permanent residency in the United States;
 - (2) Residence in the state of Missouri;
 - (3) Enrollment as a full-time veterinary medical student in the final year of a course of study offered by an approved educational institution in Missouri;
 - (4) Application for loan repayment.
2. The department shall not grant repayment for more than six veterinarians each year.

340.375. DEPARTMENT TO ADMINISTER LOAN PROGRAM — ADVISORY PANEL TO BE APPOINTED, MEMBERS, DUTIES — RULEMAKING AUTHORITY. — 1. The department of agriculture shall implement and administer the large animal veterinary [student loan] **medicine loan repayment** program established under sections [340.375 to 340.405] **340.335 to 340.350**, and the large animal veterinary [medicine loan repayment] **student loan** program established under sections [340.335 to 340.350] **340.381 to 340.396**.

2. An advisory panel of not more than five members shall be appointed by the director. The panel shall consist of three licensed large animal veterinarians, the dean of the college or his or her designee, and one public member from the agricultural sector. The panel shall make recommendations to the director on the content of any rules, regulations or guidelines under sections 340.335 to [340.405] **340.396** prior to their promulgation. The panel may make recommendations to the director regarding fund allocations for loans and loan repayment based on current veterinarian shortage needs.

3. The department of agriculture shall promulgate reasonable rules and regulations for the administration of sections [340.375 to 340.405] **340.381 to 340.396**, including but not limited to rules for disbursements and repayment of loans. It shall prescribe the form, the time and method of filing applications and supervise the proceedings thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

340.381. PROGRAM AND FUND CREATED, USE OF MONEYS. — 1. Sections 340.381 to 340.396 establish a student loan forgiveness program for approved veterinary students who practice in areas of defined need. Such program shall be known as the "Large Animal Veterinary Student Loan Program".

2. There is hereby created in the state treasury the "Veterinary Student Loan Payment Fund", which shall consist of general revenue appropriated to the large animal veterinary student loan program, voluntary contributions to support or match program activities, money collected under section 340.396, and funds received from the federal government. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections [340.375 to 340.405] **340.381 to 340.396**. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

340.384. APPLICATION PROCEDURE — AMOUNT OF AWARD — NUMBER OF APPLICANTS TO BE AWARDED. — [The department of agriculture shall enter into a contract with each qualified applicant receiving financial assistance under the provisions of sections 340.375 to 340.405 for repayment of the principal and interest] **1. Eligible students may apply to the department for financial assistance under the provisions of sections 340.381 to 340.396. If, at the time of application for a loan, a student has formally applied for acceptance at the college, receipt of financial assistance is contingent upon acceptance and continued enrollment at the college. A qualified applicant may receive financial assistance up to twenty thousand dollars for each academic year he or she remains a student in good standing at the college, provided that the cumulative total shall not exceed eighty thousand dollars per qualified applicant. An eligible student may apply for financial assistance under this section at any point in his or her educational career at the college, however any such financial assistance shall only be awarded for current or future academic years, as applicable, and shall not be awarded for any academic year completed prior to the time of application.**

2. Up to six qualified applicants per academic year may be awarded loans under the provisions of sections 340.381 to 340.396. Priority for loans shall be given to eligible students who have established financial need. All financial assistance shall be made from funds credited to the veterinary student loan payment fund.

340.387. CONTRACTS FOR ASSISTANCE — REPAYMENT — FORGIVENESS OF LOAN, WHEN. — [Eligible students may apply to the department for financial assistance under the provisions of sections 340.375 to 340.405. If, at the time of application for a loan, a student has formally applied for acceptance at the college, receipt of financial assistance is contingent upon acceptance and continued enrollment at the college. A qualified applicant may receive financial assistance for each academic year he or she remains a student in good standing at the college]

1. The department of agriculture may enter into a contract with each qualified applicant receiving financial assistance under the provisions of sections 340.381 to 340.396. Such contract shall specify terms and conditions of loan forgiveness through qualified employment as well as terms and conditions for repayment of the principal and interest.

2. The department shall establish schedules for repayment of the principal and interest on any financial assistance made under the provisions of sections 340.381 to 340.396. Interest at a rate set by the department, with the advice of the advisory panel created in section 340.341, shall be charged from the time of the payment of financial assistance on all financial assistance made under the provisions of sections 340.381 to 340.396, but the interest and principal of the total financial assistance granted to a qualified applicant at the time of the successful completion of a doctor of veterinary medicine degree program shall be forgiven through qualified employment.

3. For each year of qualified employment that an individual contracts to serve in an area of defined need, the department shall forgive up to twenty thousand dollars and accrued interest thereon on behalf of the individual for financial assistance provided under sections 340.381 to 340.396.

340.390. FAILURE TO MEET EMPLOYMENT OBLIGATIONS, REPAYMENT OF LOAN REQUIRED — DEFERRAL ON REPAYMENT PERMITTED, WHEN. — [Up to six qualified applicants per academic year may be awarded loans of up to eighty thousand dollars per applicant under the provisions of sections 340.375 to 340.405. Priority for loans shall be given to eligible students who have established financial need. All financial assistance shall be made from funds credited to the veterinary student loan payment fund] **1. A recipient of financial assistance under sections 340.381 to 340.396 who does not meet the qualified employment obligations agreed upon by contract under section 340.387, shall begin repayment of the loan principal and interest in accordance with the contract within six months of the first**

day on which the recipient did not meet the qualified employment obligations. If a qualified applicant ceases his or her study prior to successful completion of a degree or graduation from the college, interest at the rate specified in section 340.387 shall be charged on the amount of financial assistance received from the state under the provisions of sections 340.381 to 340.396, and repayment, in accordance with the contract, shall begin within ninety days of the date the financial aid recipient ceased to be an eligible student. All funds repaid by recipients of financial assistance to the department shall be deposited in the veterinary student loan payment fund for use pursuant to sections 340.381 to 340.396.

2. The department shall grant a deferral of interest and principal payments to a recipient of financial assistance under sections 340.381 to 340.396 who is pursuing a post degree training program, is on active duty in any branch of the armed forces of the United States, or upon special conditions established by the department. The deferral shall not exceed four years. The status of each deferral shall be reviewed annually by the department to ensure compliance with the intent of this section.

340.393. ACTION TO RECOVER AMOUNTS DUE PERMITTED. — [The department shall establish schedules for repayment of the principal and interest on any financial assistance made under the provisions of sections 340.375 to 340.405. Interest at the rate of nine and one-half percent per annum shall be charged on all financial assistance made under the provisions of sections 340.375 to 340.405, but the interest and principal of the total financial assistance granted to a qualified applicant at the time of the successful completion of a doctor of veterinary medicine degree program shall be forgiven through qualified employment] **When necessary to protect the interest of the state in any financial assistance transaction under sections 340.381 to 340.396, the department may institute any action to recover any amount due.**

340.396. CONTRACTS NOT REQUIRED, WHEN — EXPIRATION DATE. — [The financial assistance recipient shall repay the financial assistance principal and interest beginning not more than one year after completion of the degree for which the financial assistance was made in accordance with the repayment contract. If an eligible student ceases his or her study prior to successful completion of a degree or graduation from the college, interest at the rate specified in section 340.393 shall be charged on the amount of financial assistance received from the state under the provisions of sections 340.375 to 340.405, and repayment, in accordance with the repayment contract, shall begin within ninety days of the date the financial aid recipient ceased to be an eligible student. All funds repaid by recipients of financial assistance to the department shall be deposited in the veterinary student loan payment fund for use pursuant to sections 340.375 to 340.405] **1. Sections 340.381 to 340.396 shall not be construed to require the department to enter into contracts with individuals who qualify for education loans or loan repayment programs when federal, state, and local funds are not available for such purposes.**

2. Sections 340.381 to 340.396 shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

3. Sections 340.381 to 340.396 shall expire on June 30, 2013.

348.230. LINKED DEPOSIT LOANS FOR DAIRY COWS, FIRST YEAR OF INTEREST TO BE PAID BY AUTHORITY — FEE AUTHORIZED. — **1. The Missouri agricultural and small business development authority, subject to appropriation, shall pay for the first full year of charged interest on any applicable Missouri linked deposit program loan, as provided in sections 30.750 to 30.850, RSMo. For the purpose of this section, the term "applicable loan" shall mean any loan made and used solely for the acquisition of dairy cows and other replacement dairy females.**

2. The Missouri agricultural and small business development authority may charge a fee for the service in subsection 1 of this section, not to exceed fifty dollars per individual. Revenue generated from the fee shall be used to defray administrative costs.

348.235. DAIRY BUSINESS PLANNING GRANTS AUTHORIZED — APPLICATION PROCEDURE, FEE — LIMIT ON GRANT — RULEMAKING AUTHORITY. — 1. The Missouri agricultural and small business development authority, subject to appropriation not to exceed fifty thousand dollars, shall develop and implement dairy business planning grants as provided in this section.

2. The Missouri agricultural and small business development authority may charge an application fee for the grants developed under this section, not to exceed fifty dollars per application. Revenue generated from the application fee shall be used to defray the cost of administering the grants.

3. Eligible applicants shall be existing or start-up dairy operations wholly located in the state of Missouri that are at least fifty-one percent owned by residents of this state.

4. A single grant shall not exceed five thousand dollars or finance more than ninety percent of the cost of the business plan, whichever is less.

5. Proceeds from a grant shall only be used to contract with a dairy business planning professional that is approved by the Missouri agricultural and small business development authority.

6. The Missouri agricultural and small business development authority may promulgate rules establishing eligibility and award criteria under this section including, but not limited to, the following:

(1) The potential to improve the profitability, modernization, and expansion of the dairy operation;

(2) The education, experience, and past relevant experience of the dairy business planning professional;

(3) The qualifications, education, and experience of the dairy owner or owners and management team;

(4) The potential for timely near-term application of the results of the study;

(5) The potential economic benefit to the state of Missouri;

(6) Such other factors as the Missouri agricultural and small business development authority may establish.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

348.430. AGRICULTURAL PRODUCT UTILIZATION CONTRIBUTOR TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating **within this state** a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(6) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For all tax years beginning on or after January 1, 1999, a contributor who contributes funds to the authority may receive a credit against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year. The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section may be claimed in the taxable year in which the contributor contributes funds to the authority. For all fiscal years beginning on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any of the contributor's three prior tax years and may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold and the new owner of the tax credit shall have the same rights in the credit as the contributor. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407 to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating **within this state** a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(5) "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least sixty employees;

(6) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

(7) "Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

(8) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

(9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and ending December 31, 2002, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax or estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser

of fifty percent of such producer member's investment or fifteen thousand dollars. Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to subsection 3 of this section. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.

5. A producer member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the producer member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section may be carried back to any of the producer member's three prior taxable years and carried forward to any of the producer member's five subsequent taxable years regardless of the type of tax liability to which such credits are applied as authorized pursuant to subsection 3 of this section. Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the producer member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

348.505. TAX CREDIT FOR FAMILY FARM LIVESTOCK LOAN PROGRAM, PROCEDURE. —

1. As used in this section, "state tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147, and 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions.

2. Any eligible lender under the family farm livestock loan program under section 348.500 shall be entitled to receive a tax credit equal to one hundred percent of the amount of interest waived by the lender under section 348.500 on a qualifying loan for the first year of the loan only. The tax credit shall be evidenced by a tax credit certificate issued by the agricultural and small business development authority and may be used to satisfy the state tax liability of the owner of such certificate that becomes due in the tax year in which the interest on a qualified loan is waived by the lender under section 348.500. No lender may receive a tax credit under this section unless such person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The amount of the tax credits that may be issued to all

eligible lenders claiming tax credits authorized in this section in a fiscal year shall not exceed [one] **three** hundred [fifty] thousand dollars.

3. The agricultural and small business development authority shall be responsible for the administration and issuance of the certificate of tax credits authorized by this section. The authority shall issue a certificate of tax credit at the request of any lender. Each request shall include a true copy of the loan documents, the name of the lender who is to receive a certificate of tax credit, the type of state tax liability against which the tax credit is to be used, and the amount of the certificate of tax credit to be issued to the lender based on the interest waived by the lender under section 348.500 on the loan for the first year.

4. The Missouri department of revenue shall accept a certificate of tax credit in lieu of other payment in such amount as is equal to the lesser of the amount of the tax or the remaining unused amount of the credit as indicated on the certificate of tax credit, and shall indicate on the certificate of tax credit the amount of tax thereby paid and the date of such payment.

5. The following provisions shall apply to tax credits authorized under this section:

(1) Tax credits claimed in a taxable year may be claimed on a quarterly basis and applied to the estimated quarterly tax of the lender;

(2) Any amount of tax credit which exceeds the tax due, including any estimated quarterly taxes paid by the lender under subdivision (1) of this subsection which results in an overpayment of taxes for a taxable year, shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of three years for which a tax credit may be taken for a qualified family farm livestock loan;

(3) Notwithstanding any provision of law to the contrary, a lender may assign, transfer or sell tax credits authorized under this section, with the new owner of the tax credit receiving the same rights in the tax credit as the lender. For any tax credits assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed by the lender with the authority specifying the name and address of the new owner of the tax credit and the value of such tax credit; and

(4) Notwithstanding any other provision of this section to the contrary, any commercial bank may use tax credits created under this section as provided in section 148.064, RSMo, and receive a net tax credit against taxes actually paid in the amount of the first year's interest on loans made under this section. If such first year tax credits reduce taxes due as provided in section 148.064, RSMo, to zero, the remaining tax credits may be carried over as otherwise provided in this section and utilized as provided in section 148.064, RSMo, in subsequent years.

348.515. RECOGNITION OF BENEFIT OF PROVIDING ASSISTANCE TO CERTAIN FAMILY FARM OPERATIONS. — In recognition of the role of animal agriculture in the economic well-being of this state and in recognition that opportunities to succeed in agriculture should not be limited by the economic means of persons engaged in agriculture, the general assembly of the state of Missouri declares that state assistance in the guarantee of loans made to enable independent livestock and poultry family farm operations to succeed in the operation will benefit the state of Missouri economically and socially and is a public purpose of great importance.

348.518. LIVESTOCK FEED AND CROP INPUT LOAN GUARANTEE PROGRAM ESTABLISHED — RULEMAKING AUTHORITY. — 1. In addition to the duties and powers established in sections 348.005 to 348.505, the Missouri agricultural and small business development authority shall develop and implement a livestock feed and crop input loan guarantee program as provided in sections 348.515 to 348.533. The authority may promulgate rules necessary to carry out the purposes of sections 348.515 to 348.533. The rules promulgated under sections 348.515 to 348.533 shall be designed to encourage maximum involvement and participation by lenders and financial institutions in the loan guarantee program. The authority shall be the administrative agency for the

implementation of the loan guarantee program, and may employ such persons as necessary, within the limits of appropriations made for that purpose, to administer the loan guarantee program.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

348.521. AUTHORITY TO ISSUE CERTIFICATES OF GUARANTY — ELIGIBLE LENDER DEFINED — FEE AUTHORIZED — LIMIT ON OUTSTANDING GUARANTEED LOANS. — 1. The authority may issue certificates of guaranty covering a first loss guarantee up to but not more than fifty percent of the loan on a declining principal basis for loans to individuals executing a note or other evidence of a loan made for livestock feed and crop input, but not to exceed the amount of forty thousand dollars for any one individual and to pay from the livestock feed and crop input loan guarantee fund to an eligible lender up to fifty percent of the amount on a declining principal basis of any loss on any guaranteed loan made under the provisions of sections 348.515 to 348.533, in the event of default on the loan. Upon payment of the loan, the authority shall be subrogated to all the rights of the eligible lender.

2. As used in sections 348.515 to 348.533, the term "eligible lender" means those entities defined as "lenders" under subdivision (8) of section 348.015.

3. The authority shall charge for each guaranteed loan a one-time participation fee of fifty dollars which shall be collected by the lender at the time of closing and paid to the authority. In addition, the authority may charge a special loan guarantee fee of up to one percent per annum of the outstanding principal which shall be collected from the borrower by the lender and paid to the authority. Amounts so collected shall be deposited in the livestock feed and crop input loan program fund and used, upon appropriation, to pay the costs of administering the program.

4. All moneys paid to satisfy a defaulted guaranteed loan shall only be paid out of the livestock feed and crop input loan guarantee fund established by sections 348.515 to 348.533.

5. The total outstanding guaranteed loans shall at no time exceed an amount which, according to sound actuarial judgment, would allow immediate redemption of twenty percent of the outstanding loans guaranteed by the fund at any one time.

348.524. LIVESTOCK FEED AND CROP INPUT LOAN GUARANTEE FUND ESTABLISHED — USE OF MONEYS. — 1. There is hereby established in the state treasury the "Livestock Feed and Crop Input Loan Guarantee Fund". The fund shall consist of money appropriated to it by the general assembly, charges, gifts, grants and bequests from federal, private or other sources. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund shall be transferred to the general revenue fund.

2. All moneys received by the authority for payments made on previously defaulted guaranteed loans shall be paid promptly into the state treasury and deposited in the fund.

3. The fund shall be administered by the Missouri agricultural and small business development authority organized under sections 348.005 to 348.180.

4. Beginning with fiscal year 2008-2009, the general assembly may appropriate moneys not to exceed four million dollars for the establishment and initial funding of the livestock feed and crop input loan guarantee fund.

348.527. INVESTMENT OF FUND MONEYS. — Moneys in the fund, both unobligated and obligated as a reserve, which in the judgment of the authority are not currently needed for payments of defaults of guaranteed loans, may be invested by the state treasurer, and any income therefrom shall be deposited to the credit of the fund.

348.530. ELIGIBILITY FOR LOANS — RULEMAKING AUTHORITY. — 1. Persons eligible for guarantees for loans under the provisions of sections 348.515 to 348.533 are individuals engaged in farming operations as defined in section 348.015, who intend to use the proceeds from the loan to finance the purchase of livestock feed used to produce livestock and input used to produce crops for the feeding of livestock, and who are seeking a loan or loans to finance not more than ninety percent of the anticipated cost.

2. The authority shall adopt and promulgate rules establishing eligibility under the provisions of sections 348.515 to 348.533, taking into consideration the individual's ability to repay the loan, the general economic conditions of the area in which the individual will be located, the prospect of success of the particular farm operation for which the loan is sought and such other factors as the authority may establish. The eligibility of any person for a loan guarantee under the provisions of sections 348.515 to 348.533 shall not be determined or otherwise affected by any consideration of that person's race, religion, sex, creed, color, or location of residence. The authority may also provide for:

- (1) The requirement or nonrequirement of security or endorsement and the nature thereof;
- (2) The manner and time of repayment of the principal and interest;
- (3) The maximum rate of interest;
- (4) The right of the borrower to accelerate payments without penalty;
- (5) The amount of the guaranty charge;
- (6) The effective period of the guaranty;
- (7) The percent of the loan, not to exceed fifty percent, covered by the guaranty;
- (8) The assignability of loans by the lender;
- (9) Procedures in event of default by the borrower;
- (10) The due diligence effort on the part of lenders for collection of guaranteed loans;
- (11) Collection assistance to be provided to lenders; and
- (12) The extension of the guaranty in consideration of duty in the armed forces, unemployment, natural disasters, or other hardships.

348.533. POLICY FOR COLLECTION AND RECOVERY OF LOANS — ACTION AUTHORIZED TO RECOVER AMOUNTS DUE. — The authority, by rule, shall determine the policy of collections and recovery of loans, including the use of private collection agencies. The authority may institute action to recover any amount due the state in any loan transaction, use private collection agencies, or otherwise carry out the policy of the authority. The lender making the original loan shall cooperate with the authority in the collection of the loan and shall use its regular collection procedures prior to any action being undertaken by the authority.

[340.399. DEFERRAL OF INTEREST AND PRINCIPAL PAYMENTS, WHEN. — The department shall grant a deferral of interest and principal payments to a financial assistance recipient who is pursuing a postdegree training program, or upon special conditions established by the department. The deferral shall not exceed four years. The status of each deferral shall be reviewed annually by the department to ensure compliance with the intent of this section.]

[340.402. ACTION TO RECOVER AMOUNTS DUE AUTHORIZED. — When necessary to protect the interest of the state in any financial assistance transaction under sections 340.375 to 340.405, the department may institute any action to recover any amount due.]

[340.405. LIMITATION ON REQUIREMENTS — EXPIRATION DATE OF PROGRAM. — 1. Sections 340.375 to 340.405 shall not be construed to require the department to enter into contracts with individuals who qualify for education loans or loan repayment programs when federal, state and local funds are not available for such purposes.

2. Sections 340.375 to 340.405 shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

3. Sections 340.375 to 340.405 shall expire on June 30, 2013.]

Approved June 6, 2008

SB 932 [HCS SB 932]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows grant money distributed by the Department of Public Safety to investigate internet sex crimes against children to be used to fund training for prosecuting and circuit attorneys

AN ACT to repeal sections 542.276, 590.050 and 650.120, RSMo, and to enact in lieu thereof three new sections relating to Internet sex crimes investigation grant program.

SECTION

A. Enacting clause.

542.276. Who may apply for search warrant — contents of application, affidavit — where filed, hearing — contents of warrant — who may execute, return, when and how made — warrant deemed invalid, when.

590.050. Continuing education requirements.

650.120. Grants to fund investigations of Internet sex crimes against children — fund created — panel, membership, terms — local matching amounts — priorities — training standards — information sharing — panel recommendation — power of arrest — sunset provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 542.276, 590.050 and 650.120, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 542.276, 590.050 and 650.120, to read as follows:

542.276. WHO MAY APPLY FOR SEARCH WARRANT — CONTENTS OF APPLICATION, AFFIDAVIT — WHERE FILED, HEARING — CONTENTS OF WARRANT — WHO MAY EXECUTE, RETURN, WHEN AND HOW MADE — WARRANT DEEMED INVALID, WHEN. — 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

(1) Be in writing;

(2) State the time and date of the making of the application;

(3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(5) State facts sufficient to show probable cause for the issuance of a search warrant;

(6) Be verified by the oath or affirmation of the applicant;

(7) Be filed in the proper court;

(8) Be signed by the prosecuting attorney of the county where the search is to take place, or his or her designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.

4. The judge shall determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

(1) Be in writing and in the name of the state of Missouri;

(2) Be directed to any peace officer in the state;

(3) State the time and date the warrant is issued;

(4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized or photographed or copied and within ten days after filing of the application, any photographs or copies of the items may be filed with the issuing court;

(7) Be signed by the judge, with his or her title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded. The search warrant issued under this section may be issued by facsimile or other electronic means.

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application. **A search and any subsequent searches of the contents of any property, article, material, or substance seized and removed from the location of the execution of any search warrant during its execution may be conducted at any time during or after the execution of the warrant, subject to the continued existence of probable cause to search the property, article, material, or substance seized and removed. A search and any subsequent searches of the property, article, material, or substance seized and removed may be conducted after the time for delivering the warrant, return, and receipt to the issuing judge has expired. A supplemental return and receipt shall be delivered to the issuing judge upon final completion of any search which concludes after the expiration of time for delivering the original return and receipt.**

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he or she is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection 6 of section 542.291. The

judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

- (1) If it was not issued by a judge; or
- (2) If it was issued without a written application having been filed and verified; or
- (3) If it was issued without probable cause; or
- (4) If it was not issued in the proper county; or
- (5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or
- (6) If it is not signed by the judge who issued it; or
- (7) If it was not executed within the time prescribed by subsection 8 of this section.

590.050. CONTINUING EDUCATION REQUIREMENTS. — 1. The POST commission shall establish requirements for the continuing education of all peace officers. Peace officers who make traffic stops shall be required to receive [annual training] **three hours of training within the law enforcement continuing education three-year reporting period** concerning the prohibition against racial profiling and such training shall promote understanding and respect for racial and cultural differences and the use of effective, noncombative methods for carrying out law enforcement duties in a racially and culturally diverse environment.

2. The director shall license continuing education providers and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision of the director pursuant to this subsection may appeal as provided in chapter 536, RSMo.

3. The costs of continuing law enforcement education shall be reimbursed in part by moneys from the peace officer standards and training commission fund created in section 590.178, subject to availability of funds, except that no such funds shall be used for the training of any person not actively commissioned or employed by a county or municipal law enforcement agency.

4. The director may engage in any activity intended to further the professionalism of peace officers through training and education, including the provision of specialized training through the department of public safety.

650.120. GRANTS TO FUND INVESTIGATIONS OF INTERNET SEX CRIMES AGAINST CHILDREN — FUND CREATED — PANEL, MEMBERSHIP, TERMS — LOCAL MATCHING AMOUNTS — PRIORITIES — TRAINING STANDARDS — INFORMATION SHARING — PANEL RECOMMENDATION — POWER OF ARREST — SUNSET PROVISION. — 1. **There is hereby created in the state treasury the "Cyber Crime Investigation Fund". The treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Beginning with the 2010 fiscal year and in each subsequent fiscal year, the general assembly shall appropriate three million dollars to the cyber crime investigation fund. The department of public safety shall be the administrator of the fund. Moneys in the fund shall be used solely for the administration of the grant program established under this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.**

2. Subject to appropriation, the department of public safety shall create a program to distribute grants to multijurisdictional Internet cyber crime law enforcement task forces, multijurisdictional enforcement groups, as defined in section 195.503, RSMo, that are investigating Internet sex crimes against children, and other law enforcement agencies. **The program shall be funded by the cyber crime investigation fund created under subsection**

1 of this section. Not more than three percent of the money [appropriated] **in the fund** may be used by the department to pay the administrative costs of the grant program. The grants shall be awarded and used to pay the salaries of detectives and computer forensic personnel whose focus is investigating Internet sex crimes against children, including but not limited to enticement of a child, possession or promotion of child pornography, provide funding for the training of law enforcement personnel **and prosecuting and circuit attorneys as well as their assistant prosecuting and circuit attorneys**, and purchase necessary equipment, supplies, and services. The funding for such training may be used to cover the travel expenses of those persons participating.

[2.] **3.** A panel is hereby established in the department of public safety to award grants under this program and shall be comprised of the following members:

- (1) The director of the department of public safety, or his or her designee;
- (2) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Police Chiefs Association;
- (3) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Sheriffs' Association;
- (4) Two members of the state highway patrol shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri State Troopers Association;
- (5) One member of the house of representatives who shall be appointed by the speaker of the house of representatives; and
- (6) One member of the senate who shall be appointed by the president pro tem.

The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Such members shall hold office for the term of his or her appointment and until a successor is appointed. The members of the panel shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of panel duties.

[3.] **4.** Local matching amounts, which may include new or existing funds or in-kind resources including but not limited to equipment or personnel, are required for multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies to receive grants awarded by the panel. Such amounts shall be determined by the state appropriations process or by the panel.

[4.] **5.** When awarding grants, priority should be given to newly hired detectives and computer forensic personnel.

[5.] **6.** The panel shall establish minimum training standards for detectives and computer forensic personnel participating in the grant program established in subsection 1 of this section.

[6.] **7.** Multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies participating in the grant program established in subsection [1] **2** of this section shall share information and cooperate with the highway patrol and with existing Internet crimes against children task force programs.

[7.] **8.** The panel may make recommendations to the general assembly regarding the need for additional resources or appropriations.

[8.] **9.** The power of arrest of any peace officer who is duly authorized as a member of a multijurisdictional Internet cyber crime law enforcement task force shall only be exercised during the time such peace officer is an active member of such task force and only within the scope of the investigation on which the task force is working. Notwithstanding other provisions of law to the contrary, such task force officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of a municipality or the sheriff of the county in which the arrest is to take place. If exigent circumstances exist,

such arrest may be made and notification shall be made to the chief of police or sheriff as appropriate and as soon as practical. The chief of police or sheriff may elect to work with the multijurisdictional Internet cyber crime law enforcement task force at his or her option when such task force is operating within the jurisdiction of such chief of police or sheriff.

[9.] 10. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 10, 2008

SB 936 [SB 936]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allow motorists to operate vehicles without current registrations for the purpose of resetting emissions readiness monitors in order to pass emissions inspection retests

AN ACT to repeal section 643.340, RSMo, and to enact in lieu thereof one new section relating to motor vehicle emissions inspection process.

SECTION

A. Enacting clause.

643.340. Operation of vehicle without registration, when allowed — vehicle emission inspection, lawful operation beyond registration expiration, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 643.340, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.340, to read as follows:

643.340. OPERATION OF VEHICLE WITHOUT REGISTRATION, WHEN ALLOWED — VEHICLE EMISSION INSPECTION, LAWFUL OPERATION BEYOND REGISTRATION EXPIRATION, WHEN. — 1. For the purpose of obtaining an emissions inspection only, a vehicle may be lawfully operated over the most direct route between the owner's usual domicile and an inspection station of the owner's choice, notwithstanding that the vehicle does not have a current state registration license.

2. A vehicle may be lawfully operated from an emissions inspection station to another place for the purpose of making repairs and back to the emissions inspection station, notwithstanding that the vehicle does not have a current state registration license.

3. **For the purpose of obtaining an emissions inspection only, a vehicle may be lawfully operated for thirty days beyond the vehicle's registration expiration, notwithstanding that the vehicle does not have a current state registration license, if the vehicle is being driven to reset the vehicle's readiness monitors to pass the on-board diagnostic (OBD) emission inspection described in section 643.303. Vehicle operators shall keep a copy of the most recent failing OBD test results with them to present to law enforcement officers while they are operating the vehicle to reset the vehicle's readiness**

monitors. The late registration penalty fee described in section 301.050, RSMo, shall still apply if the vehicle is registered after its current registration expires.

Approved July 10, 2008

SB 939 [HCS SCS SB 939]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits a levee district to levy a uniform tax of not more than eight dollars per acre upon each acre of land rather than one dollar per acre

AN ACT to repeal sections 242.230, 242.430, 242.500, 245.020, 245.105, 245.175, 245.197, and 246.305, RSMo, and to enact in lieu thereof eight new sections relating to certain district taxes.

SECTION

- A. Enacting clause.
- 242.230. Engineer's annual report — adoption of plan for reclamation — supplemental plans authorized.
- 242.430. Tax levied by board for cost of organization.
- 242.500. Petition for reassessment of benefits — appointment of commissioners.
- 245.020. Circuit clerk to give notice by publication — form of notice — mailing required.
- 245.105. Chief engineer to make report — supervisors to adopt plans and supplemental plans for reclamation.
- 245.175. Board to levy tax to pay cost of organization.
- 245.197. Readjustment of benefits, when — levy of new tax for carrying out supplemental plan — notice, how given — form of notice — lists, where filed.
- 246.305. Alternative levee district, certain counties — voting rights — apportionment of taxes, board may adopt procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 242.230, 242.430, 242.500, 245.020, 245.105, 245.175, 245.197, and 246.305, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 242.230, 242.430, 242.500, 245.020, 245.105, 245.175, 245.197, and 246.305, to read as follows:

242.230. ENGINEER'S ANNUAL REPORT — ADOPTION OF PLAN FOR RECLAMATION — SUPPLEMENTAL PLANS AUTHORIZED. — The chief engineer shall make a report in writing to the board of supervisors once every twelve months and [oftener] **more often** if said board shall so require. Upon receipt of the final report of said engineer concerning surveys made of the lands and other property contained in the district organized, and plans for reclaiming the same, the board of supervisors shall adopt such report or any modification thereof approved by the chief engineer after consulting with [him] **the chief engineer** or someone representing [him] **the chief engineer**, and thereafter such adopted report shall be the plan for draining, leveeing or reclaiming such lands and other property from overflow or damage by water, and it shall after such adoption be known and designated as "The Plan for Reclamation", which plan shall be filed with the secretary of the board of supervisors and [by him] copied **by the secretary** into the records of the district. Supplemental plans for draining, leveeing, or reclaiming **some or all of** the lands and other property in the district from overflow or damage by water may be adopted by the board of supervisors from time to time as deemed necessary by the board of supervisors. The aforesaid supplemental plans may supplement, alter or modify "The Plan for Reclamation" and shall become a part thereof.

242.430. TAX LEVIED BY BOARD FOR COST OF ORGANIZATION. — 1. The board of supervisors of any drainage district organized under the provisions of sections 242.010 to 242.690 shall as soon as elected and qualified, levy a uniform tax of not more than [one dollar] **eight dollars** per acre upon each acre of land within such district, as defined by the articles of association to be used for the purpose of paying expenses incurred or to be incurred in organizing said district, making surveys of the same and assessing benefits and damages and to pay other expenses necessary to be incurred before said board shall be empowered by section 242.450 to provide funds to pay the total cost of works and improvements of the district.

2. In case the boundary lines of the district be extended under the provisions of section 242.050, so as to include lands and other property not described and contained in the articles of association, the same uniform tax shall be made on such lands and other property as soon as same shall have been annexed and included in the district.

3. Such tax shall be due and payable as soon as assessed and if not paid by December thirty-first of the year in which it has been levied, the same shall become delinquent. It shall become a lien on the land and other property against which it is assessed and shall be collected in the same manner as the annual installment of tax. In case the sum received from such assessment exceeds the total cost of items for which the same has been levied, the surplus shall be placed in the general fund of the district and used to pay cost of construction; provided, that if the corporation of the district be dissolved, as provided for in section 242.290, the amount of surplus, if there be any, shall be prorated and refunded to the landowners paying such uniform tax.

242.500. PETITION FOR REASSESSMENT OF BENEFITS — APPOINTMENT OF COMMISSIONERS. — 1. Whenever the **board of supervisors of any district in existence as of August 28, 2008, or organized under this chapter after August 28, 2008, on behalf of the district, or the** owners of twenty-five percent or more of the acreage of the lands in the district shall file a petition with the circuit clerk in whose office the articles of association were filed, stating that there has been a material change in the values of **all or some of** the property in the district since the last previous assessment of benefits or readjustment of the assessment of benefits and praying for a readjustment of the assessment of benefits **of the property identified in the petition** for the purpose of making a more equitable basis for the levy of the maintenance tax or for the purpose of levying a new tax to pay the costs of the completion of the proposed works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section 242.230, or for both of the aforesaid purposes, the circuit clerk shall give notice of the filing and hearing of the petition in the manner and for the time provided for in section 242.030. The notice may be in the following form:

Notice is hereby given to all persons interested in the lands and property included within the district that a petition has been filed in the office of the clerk of the circuit court of County,, praying for a readjustment of the assessment of benefits **of all or some of the property in the district as identified in the petition** for the purpose(s) of, and that the petition will be heard by the circuit court on the day of, 20....

.....,
Clerk of the circuit court County

Upon hearing of the petition if the court finds that there has been a material change in the values of **some or all of the** property in the district **as identified in the petition** since the last previous assessment of benefits, the court shall order that there be made a readjustment of the assessment of benefits **for the lands identified in the petition** for the purpose of providing a basis upon which to levy the maintenance tax of the district or for the purpose of levying a new tax to pay the costs of the completion of the proposed works and improvements as shown in the

supplemental plan for reclamation adopted by the board of supervisors pursuant to section 242.230, or for both of the aforesaid purposes.

2. Thereupon the court shall appoint three commissioners, possessing the qualifications of commissioners appointed under section 242.240 to make such readjustment of assessments in the manner provided in section 242.260 **with respect to the lands identified in the petition** and the commissioners shall make their report, and the same proceedings shall be had thereon, as nearly as may be, as are herein provided for the assessment of benefits accruing for original construction; provided, that in making the readjustment of the assessment of benefits, the commissioners shall not be limited to the aggregate amount of the original or any readjustment of the assessment of benefits, and may assess the amount of benefits that will accrue from carrying out and putting into effect such supplemental plan for reclamation adopted by the board of supervisors pursuant to section 242.230. After the making of such readjustment, the limitation of twenty percent of the annual maintenance tax which may be levied shall apply to the amount of benefits as readjusted, and the limitation of the tax which may be levied for payment of the costs of the completion of the proposed works and improvements as shown in the aforesaid supplemental plan for reclamation shall apply to the amount of the benefits as readjusted. There shall be no such readjustment of benefits oftener than once in a year. The list of lands, and other property, with the readjusted assessed benefits and the decree and judgment of the court, shall be filed in the office of the county recorder as provided in section 242.280.

245.020. CIRCUIT CLERK TO GIVE NOTICE BY PUBLICATION — FORM OF NOTICE — MAILING REQUIRED. — 1. After such articles of association shall have been filed, the clerk in whose office the articles of association have been filed shall give notice by causing publication to be made once in some newspaper published in each county in which the land and other property of the district are situate[; said]. **Such** notice shall be published within fourteen days of filing of the articles[; said], **and the** notice shall be substantially in the following form and it shall be deemed sufficient for all purposes of sections 245.010 to 245.280:

NOTICE OF APPLICATION TO FORM LEVEE DISTRICT.

Notice is hereby given to all persons interested in the following described real estate and other property in County of Missouri (here describe the property as set out in the articles of association) that articles of association asking that the foregoing lands and other property be formed into a levee district under the provisions of sections 245.010 to 245.280, RSMo, have been filed in this office, and the foregoing real estate and other property will be affected by the formation of said levee district and be rendered liable to taxation for the purposes of paying the expenses of organizing and making and maintaining the improvements that may be found necessary to effect the leveeing and reclamation of the land and other property in said district, and you and each of you may file objections or exceptions to said articles of association and petition on or before the day of, 20...., in this office, but not thereafter, if any there be, why said levee district as set forth in the articles of association shall not be organized as a public corporation of the state of Missouri.

.....,
Clerk of circuit court of County.

The circuit court of the county in which said articles of association have been filed shall thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of said district without regard to county lines, for all purposes of this law; provided, that where lands in different counties are sought to be incorporated in the same district, it shall not be necessary to include all of the lands in said proposed levee district in the notice published in the different counties, but only such lands and other property in the district as are situate in the respective counties.

2. Within fourteen days of the filing of the articles, those petitioning for the creation of the district shall mail, by certified mail, a copy of the notice contained in this section to the names as listed on the county assessor's records of the owners of land **identified in the petition** or other

individual or corporate franchise property in the district **identified in the petition**, including all public entities owning land within the district.

245.105. CHIEF ENGINEER TO MAKE REPORT — SUPERVISORS TO ADOPT PLANS AND SUPPLEMENTAL PLANS FOR RECLAMATION. — The chief engineer shall make a report in writing to the board of supervisors when said board shall so require it. Upon receipt of the final report of said engineer concerning surveys made of the lands and other property contained in the district organized, and plans for reclaiming or protecting the same the board of supervisors shall adopt such report or any modification thereof approved by the chief engineer after consulting with [him] **the chief engineer** or someone representing [him] **the chief engineer**, and thereafter such adopted report shall be the plan for leveeing, protecting or reclaiming such lands and other property from overflow or damage by water, and it shall after such adoption be known and designated as "the plan for reclamation" which term shall include leveeing, diking, bank protection, current control or other improvement, which plan shall be filed with the secretary of the board of supervisors and [by him] copied **by the secretary** into the records of the district. Supplemental plans for leveeing, protecting or reclaiming **some or all of** the lands and other property in the district from overflow or damage by water may be adopted by the board of supervisors from time to time as deemed necessary by the board of supervisors. The aforesaid supplemental plans may supplement, alter or modify "the plan for reclamation" and shall become a part thereof.

245.175. BOARD TO LEVY TAX TO PAY COST OF ORGANIZATION. — 1. The board of supervisors of any levee district organized under the provisions of sections 245.010 to 245.280 shall levy a uniform tax of not more than [one dollar] **eight dollars** per acre upon each acre of land and each mile of right-of-way of all public service corporations, within such district, as defined by the articles of association to be used for the purpose of paying expenses incurred or to be incurred in organizing said district, making surveys of the same and assessing benefits and damages and to pay other expenses necessarily to be incurred before said board shall be empowered by section 245.180 to provide funds to pay the total cost of works and improvements of the district.

2. In case the boundary lines of the district be extended under the provisions of section 245.140, so as to include lands and other property not described and contained in the articles of association, the same uniform tax shall be levied on such lands and other property as soon as same shall have been annexed and included in the district.

3. Such tax shall be due and payable as soon as assessed and if not paid by December thirty-first of the year in which it has been levied the same shall become delinquent. It shall become a lien on the land and other property against which it is assessed and shall be collected in the same manner as the annual installment of tax is collected. In case the sum received from such assessment exceeds the total cost of items for which the same has been levied, the surplus shall be placed in the general fund of the district and used to pay cost of construction; provided, that if the incorporation of the district be dissolved, as provided for in section 245.275, the amount of surplus, if there be any, shall be prorated and refunded to the landowners paying such uniform tax; provided further, that if the levee district be located within a third or fourth class city of this state, or within a city in this state under fifty thousand population operating under a special charter, then in the discretion of its board of supervisors, a uniform tax not exceeding five dollars may be levied on each lot, tract, parcel or subdivision thereof as set forth in the decree of the court incorporating said levee district.

245.197. READJUSTMENT OF BENEFITS, WHEN — LEVY OF NEW TAX FOR CARRYING OUT SUPPLEMENTAL PLAN — NOTICE, HOW GIVEN — FORM OF NOTICE — LISTS, WHERE FILED. — 1. Whenever the board of supervisors of any district now existing or hereafter organized pursuant to sections 245.010 to 245.280, for and in behalf of the district, or the owners

of twenty-five percent or more of the acreage of the lands in the district, shall file a petition with the circuit clerk[,] in whose office the articles of association were filed[,] stating that there has been a material change in the values of **all or some of** the property in the district since the last previous assessment of benefits or readjustment of the assessment of benefits, and praying for a readjustment of the assessment of benefits **of the property identified in the petition** for the purpose of making a more equitable basis for the levy of the maintenance tax or for the purpose of levying a new tax to pay the costs of the completion of the proposed works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section 245.105, or for both of the aforesaid purposes, the court wherein the petition is filed, if in session, or the clerk thereof in vacation, shall fix a date for the hearing of the petition which date shall not be less than forty-five nor more than sixty days from the date of the filing of the petition.

2. The circuit clerk shall give notice **to all persons interested in the lands and property identified in the petition** of the filing and hearing of the petition in the manner and for the time provided for in section 245.020. Such notice may be in the following form:

To All Persons Interested in the **following described (insert description of lands and property)** Lands and Property Included Within District:

You are hereby notified that a petition has been filed in the office of the clerk of the circuit court of County, Missouri, praying for a readjustment of the assessment of benefits for the purpose(s) of and that the petition will be heard by the circuit court on the day of, 20....

.....
Clerk of the Circuit Court of
..... County, Missouri.

3. Upon the hearing of the petition, if the court finds that there has been a material change in the values of **the** property in the district **identified in the petition** since the last previous assessment of benefits, the court shall order that there be made a readjustment of the assessment of benefits **for the lands identified in the petition** for the purpose of providing a basis upon which to levy the maintenance tax of the district or for the purpose of levying a new tax to pay the costs of the completion of the proposed works and improvements as shown in the supplemental plan for reclamation adopted by the board of supervisors pursuant to section 245.105, or for both of the aforesaid purposes.

4. Thereupon the court shall appoint three commissioners possessing the qualifications of commissioners appointed under section 245.110 to make such readjustment of assessments in the manner provided in section 245.120 **with respect to those lands identified in the petition**. The commissioners shall make their report, and the same proceedings shall be had thereon, as nearly as may be, as are provided in sections 245.010 to 245.280, for the assessment of benefits accruing from the original construction. In making the readjustment of the assessment of benefits, the commissioners shall not be limited to the aggregate amount of the original or any readjustment of the assessment of benefits, and may assess the amount of benefits that will accrue from carrying out and putting into effect the supplemental plan for reclamation adopted by the board of supervisors pursuant to section 245.105. After the making of the readjustment, the limitation of ten percent of the benefits assessed for the annual maintenance tax which may be levied shall apply to the amount of benefits as readjusted, and the limitation of the tax which may be levied for payment of the costs of the completion of the proposed works and improvements as shown in the aforesaid supplemental plan for reclamation shall apply to the amount of the benefits readjusted.

5. There shall be no such readjustment of benefits [oftener] **more often** than once in a year. The lists of land and other property, with the readjusted assessed benefits and the decree and judgment of the court, shall be filed in the office of the county recorder as provided in section 245.130.

246.305. ALTERNATIVE LEVEE DISTRICT, CERTAIN COUNTIES — VOTING RIGHTS — APPORTIONMENT OF TAXES, BOARD MAY ADOPT PROCEDURE. — 1. In any levee **or drainage** district formed pursuant to the laws of this state having assessed valuation of real property of twenty-five million dollars or greater, which is located in whole or in part in a county with a charter form of government and with more than one million inhabitants according to the last decennial census, the board of supervisors may by order, resolution or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the following alternative procedure with respect to voting rights: voting by landowners of the levee **or drainage** district shall be determined on the basis of the assessed benefits of the property owned and the owner of each piece of property shall receive one vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount in cases where assessed benefits do not evenly tally. In cases where the assessed benefits of a piece of property are below ten thousand dollars, the owner shall be entitled to one vote.

2. In any levee district formed under the laws of this state, the board of supervisors may, by order, resolution, or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the procedure in this subsection with respect to the apportionment of installment taxes. After the making of a readjustment of the assessment of benefits, **partial or otherwise**, pursuant to section 245.197, RSMo, then the board of supervisors shall reapportion and levy on each tract of land or other property in the district **identified in the petition** the taxes imposed under section 245.180, 245.190 or 245.198, RSMo, in proportion to the benefits assessed as readjusted and not in excess thereof. In case bonds have been issued as provided in sections 245.010 to 245.280, RSMo, then the amount of interest which will accrue on such bonds shall be included and added to said taxes as reapportioned and levied based upon the benefits assessed as readjusted. The secretary of the board of supervisors, as soon as said tax has been reapportioned, shall, at the expense of the district, prepare a list of all taxes as reapportioned and levied, in the form of a well-bound book, which book shall be endorsed and named "Readjusted Levee Tax Record of District", which endorsement shall also be printed or written at the top of each page of said book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and the same shall thereafter become a permanent record in the office of the secretary. The board of supervisors shall each year thereafter determine, order and levy the amount of the annual installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based upon such reapportionment, which shall in all other respects be due and collected as provided in section 245.185, RSMo.

3. In any drainage district formed under the laws of this state, the board of supervisors may, by order, resolution, or ordinance, following a public hearing thereon called upon notice as provided in section 242.150, RSMo, adopt the procedure in this subsection with respect to the apportionment of installment taxes. After the making of a readjustment of the assessment of benefits, **partial or otherwise**, under section 242.500, RSMo, then the board of supervisors shall reapportion and levy on each tract of land or other property in the district **identified in the petition** the taxes imposed under section 242.450, 242.470, or 242.502, RSMo, in proportion to the benefits assessed as readjusted and not in excess thereof. In case bonds have been issued as provided in chapter 242, RSMo, then the amount of interest which will accrue on such bonds shall be included and added to such taxes as reapportioned and levied based upon the benefits assessed as readjusted. As soon as the tax has been reapportioned, the secretary of the board of supervisors shall, at the expense of the district, prepare a list of all taxes as reapportioned and levied, in the form of a well-bound book, which book shall be endorsed and named "Readjusted Drainage Tax Record of District", which endorsement shall also be printed or written at the top of each page of the book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and shall thereafter become a permanent record in the office of the secretary. The

board of supervisors shall each year thereafter determine, order, and levy the amount of the annual installment of the total taxes levied under section 242.450, 242.470, or 242.502, RSMo, based upon such reapportionment, which shall in all other respects be due and collected as provided in section 242.460, RSMo.

Approved July 10, 2008

SB 944 [SS SCS SB 944]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the fees the Auditor receives for registering bonds

AN ACT to repeal section 108.250, RSMo, and to enact in lieu thereof one new section relating to state auditor compensation for bond registration, with an emergency clause.

SECTION

A. Enacting clause.

108.250. Auditor's fee for registering bonds — transmitted to director of revenue.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 108.250, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.250, to read as follows:

108.250. AUDITOR'S FEE FOR REGISTERING BONDS — TRANSMITTED TO DIRECTOR OF REVENUE. — The state auditor shall be paid for registering bonds the sum of ten cents for each one hundred dollars of the face value of the bonds registered; provided, that the fee for registering any issue of bonds shall in no case be less than twenty-five cents **and in no case be greater than one thousand dollars**. The amount of any fee [so] collected **under this section** shall be promptly transmitted to the state director of revenue.

SECTION B. EMERGENCY CLAUSE. — Because of the need to establish an equitable fee structure for the registration of bonds, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 16, 2008

SB 951 [SCS SB 951]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law relating to emergency response within financial institutions

AN ACT to repeal sections 44.100, 361.240, and 362.048, RSMo, and to enact in lieu thereof three new sections relating to emergency response within financial institutions.

SECTION

- A. Enacting clause.
- 44.100. Emergency powers of governor.
- 361.240. Director's approval — discretion — filing — written waivers required.
- 362.048. Emergency bylaws — when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 44.100, 361.240, and 362.048, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 44.100, 361.240, and 362.048, to read as follows:

44.100. EMERGENCY POWERS OF GOVERNOR. — 1. The emergency powers of the governor shall be as follows:

(1) The provisions of this section shall be operative only during the existence of a state of emergency (referred to in this section as "emergency"). The existence of an emergency may be proclaimed by the governor or by resolution of the legislature, if the governor in his proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of major proportions has actually occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.

(2) Any emergency, whether proclaimed by the governor or by the legislature, shall terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a resolution terminating such emergency.

(3) During the period that the state of emergency exists or continues, the governor shall:

(a) Enforce and put into operation all plans, rules and regulations relating to disasters and emergency management of resources adopted under this law and to assume direct operational control of all emergency forces and volunteers in the state;

(b) Take action and give directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this law and with the orders, rules and regulations made pursuant thereof;

(c) Seize, take or requisition to the extent necessary to bring about the most effective protection of the public:

a. Any means of transportation, other than railroads and railroad equipment and fuel, and all fuel necessary for the propulsion thereof;

b. Any communication system or part thereof necessary to the prompt and efficient functioning of the emergency management of the state;

c. All stocks of fuel;

d. Facilities for housing, feeding and hospitalization of persons, including buildings and plants;

(d) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods or services;

(e) Prescribe and direct activities in connection with but not limited to use, conservation, salvage and prevention of waste of materials, services and facilities, including production, transportation, power and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection and other essential civil needs;

(f) [To] Use or distribute all or any of this property among the inhabitants of the state in any area adversely affected by a natural or man-made disaster and to account to the state treasurer for any funds received thereof;

(g) [To] Waive or suspend the operation of any statutory requirement or administrative rule regarding the licensing, certification or issuance of permits evidencing professional, mechanical or other skills;

(h) [To] Waive or suspend the operation of any statutory requirement or administrative rule prescribing procedures for conducting state business, where strict compliance with such requirements and rules would prevent, hinder, or delay necessary action by the department of health and senior services to respond to a declared emergency or increased health threat to the population;

(i) In accordance with rules or regulations, [to] provide that all law enforcement authorities and other emergency response workers and agencies of other states who may be within this state at the request of the governor or pursuant to state or local mutual-aid agreements or compacts shall have the same authority and possess the same powers, duties, rights, privileges and immunities as are possessed by like law enforcement authorities and emergency response workers and agencies of this state;

(j) [To] Perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population;

(k) Authorize the director of finance and the director of credit unions to waive or suspend the operation of any statutory requirement or administrative rule applicable to the division of finance, banking, financial services, or the division of credit unions and take action and give direction to banks, credit unions, and financial institutions, including coordinating actions with emergency responders, federal agencies, and state banking and credit union associations as may be reasonable and necessary to preserve the safety and soundness of banks, credit unions, and financial institutions; and facilitate disaster response and recovery efforts to serve essential civil needs and protect the public interest.

2. When any property is seized, taken or requisitioned under this section, the circuit court of the county in which the property was taken may on the application of the owner thereof or on the application of the governor in cases where numerous claims may be filed, appoint three disinterested commissioners in the manner provided by section 523.040, RSMo, to assess the damages which the owners may have sustained by reason of the appropriation thereof. Upon the application the amount due because of the seizure of property shall be determined in the manner provided in chapter 523, RSMo, for the determination of damages in case of the exercise of the power of eminent domain.

361.240. DIRECTOR'S APPROVAL — DISCRETION — FILING — WRITTEN WAIVERS REQUIRED. — 1. In any case in which the law makes the approval of the director a condition precedent to the doing of any act, unless otherwise provided by law, it shall lie within his sound discretion to grant or refuse his approval.

2. Such approval, if granted, shall be in writing and a copy thereof shall be filed in the office of the director.

3. Whenever the director of finance or the director of credit unions takes any action during a state of emergency authorized under section 44.100, RSMo, the director or his or her designee shall as soon as practicable, file written waivers, suspensions, actions, and directives in the office of the director.

362.048. EMERGENCY BYLAWS — WHEN. — 1. The board of directors of any bank or trust company may adopt emergency bylaws, subject to repeal or change by action of the stockholders or directors as may be provided in the articles of agreement, which shall, notwithstanding any different provision elsewhere in this chapter or in the articles of agreement or bylaws, be operative during any emergency resulting from an attack on the United States or any nuclear or atomic disaster, **or during an emergency authorized under section 44.100, RSMo.** As soon as practicable, the board of directors or president of the financial institution shall notify the director of finance of the implementation of emergency bylaws

and the status of the financial institution's operations and emergency response. The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

(1) A meeting of the board of directors may be called by any officer or director in such manner and under such conditions as shall be prescribed in the emergency bylaws;

(2) The director or directors in attendance at the meeting, or any greater number fixed by the emergency bylaws, shall constitute a quorum; and

(3) The officers or other persons designated on a list approved by the board of directors before the emergency, all in such order of priority and subject to such conditions and for such period of time (not longer than reasonably necessary after the termination of the emergency) as may be provided in the emergency bylaws or in the resolution approving the list, shall, to the extent required to provide a quorum at any meeting of the board of directors, be deemed directors for such meeting.

2. The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such an emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties.

3. The board of directors, either before or during any such emergency, may, effective in the emergency, change the office or designate several alternative officers, or authorize the officers so to do.

4. No officer, director, or employee acting in accordance with any emergency bylaws shall be liable except for willful misconduct.

5. To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the bank or trust company shall remain in effect during any emergency and upon its termination the emergency bylaws shall cease to be operative.

6. Unless otherwise provided in emergency bylaws, notice of any meeting of the board of directors during such an emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

7. To the extent required to constitute a quorum at any meeting of the board of directors during such an emergency, the officers of the bank or trust company who are present shall, unless otherwise provided in emergency bylaws, be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

Approved June 19, 2008

SB 956 [SB 956]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to public water supply districts

AN ACT to repeal sections 247.060 and 247.160, RSMo, and to enact in lieu thereof two new sections relating to public water supply districts.

SECTION

A. Enacting clause.

247.060. Board of directors — powers — qualifications — appointment — terms — vacancies, how filled — elections held, when, procedure.

247.160. Mains and equipment conveyed to city, when — conditions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 247.060 and 247.160, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 247.060 and 247.160, to read as follows:

247.060. BOARD OF DIRECTORS — POWERS — QUALIFICATIONS — APPOINTMENT — TERMS — VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE. — 1. The management of the business and affairs of the district is hereby vested in a board of directors, who shall have all the powers conferred upon the district except as herein otherwise provided, who shall serve without pay. It shall be composed of five members, each of whom shall be a voter of the district and shall have resided in said district one whole year immediately prior to his election. A member shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his election. Except as provided in subsection 2 of this section, the term of office of a member of the board shall be three years. The remaining members of the board shall appoint a qualified person to fill any vacancy on the board. If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve on the board, the board may appoint an otherwise qualified person, who lives in the district but not in the subdistrict in which the vacancy exists to fill such vacancy.

2. After notification by certified mail that he or she has two consecutive unexcused absences, any member of the board failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to the board. The vacancy shall be filled as other vacancies occurring in the board.

3. The initial members of the board shall be appointed by the circuit court and one shall serve until the immediately following first Tuesday after the first Monday in [June] **April**, two shall serve until the first Tuesday after the first Monday in [June] **April** on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in [June] **April** on the third year following their appointment. On the expiration of such terms and on the expiration of any subsequent term, elections shall be held as otherwise provided by law, and such elections shall be held in April pursuant to section 247.180.

4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first Tuesday after the first Monday in June until the first Tuesday in April of the third year following the year of their election. All directors elected thereafter shall serve from the first Tuesday in April until the first Tuesday in April of the third year following the year of their election.

247.160. MAINS AND EQUIPMENT CONVEYED TO CITY, WHEN — CONDITIONS. — 1. Whenever all or any part of the territory of any public water supply district organized under sections 247.010 to 247.220 is or has been included by annexation within the corporate limits of a municipality, the board of directors of any such district shall have the power to contract with such municipality for operating the waterworks system within such annexed area, or the board of directors, may, subject to the provisions of sections 247.160 and 247.170, lease, contract to sell, sell or convey, any or all of its water mains, plant or equipment located within such annexed area to such municipality and such contract shall also provide for the detachment and exclusion from such public water supply district of that part thereof located within the corporate limits of such city; provided, that in case of sale or conveyance, all bonds of the district, whether general obligation bonds constituting a lien on the property located within the district, or special obligation or revenue bonds constituting a lien on the income and revenues arising from the operation of the water system:

- (1) Are paid in full, or
- (2) A sum sufficient to pay all of such bonds together with interest accrued or to accrue thereon, together with other items of expense provided in such bonds, is deposited with the fiscal agent named in the bonds for the purpose of full payment, or

(3) Such city has entered into a firm commitment to pay in lump sum or installments not less than that proportion of the sum of all existing liquidated obligations and of all unpaid revenue bonds, with interest thereon to date, of such public water supply district, as the assessed valuation of the real and tangible personal property within the area annexed bears to the assessed valuation of all the real and tangible personal property within the entire area of such district, according to the official county assessment of such property as to December thirty-first of the calendar year next preceding, or

(4) Consent in writing is obtained from the holders of all such bonds.

2. In any such case in which the board of directors by agreement, leases, contracts to sell, sells or conveys the property of the district within the annexed area to such a municipality, an application shall be made by one of the contracting parties to the circuit court originally incorporating such district, which application shall set forth a description of the annexed area, that part thereof sought to be detached and excluded, a copy of the agreement entered into by the parties, the facts concerning bondholders and their rights, and requesting an order of the court approving or disapproving such contract.

3. Upon the filing of such application, the court shall set a time for the hearing thereof and shall order a public notice setting forth the nature of the application, the annexed area affected and sought to be detached and excluded, a description of the property within the annexed area leased, contracted to be sold, sold or conveyed, and the time and place of such hearing, to be published for three weeks consecutively, in a newspaper published in the county in which the application is pending, the last publication to be not more than [five] **seven** days before the date set for hearing.

4. If the court finds that the agreement protects the bondholders' rights and provides for the rendering of necessary water service in the territory embracing the district, then such agreement shall be fully effective upon approval by the court. Such decree shall also thereupon vest in said city the absolute title, free and clear of all liens or encumbrances of every kind and character, to all tangible real and personal property of such public water supply district located within the part of such district situated within the corporate limits of such city, with full power in such city to use and dispose of such tangible real and personal property as it deems best in the public interest. **In the event that territory is detached and excluded from the district, the court shall include in its decree a description of the district after such detachment. If a detachment of territory is made, the court shall also make any changes in subdistrict boundary lines the court deems necessary to meet the requirements of sections 247.010 to 247.227. No subdistrict changes shall become effective until the next annual election of the board of directors.**

5. **In the event that territory is detached and excluded from the district, a certified copy of the court's order shall be filed by the circuit clerk in the office of the recorder of deeds, in the office of the county clerk in each county in which any of the territory of the district before the detachment is located, and in the office of the secretary of state. Costs of the proceeding shall be borne by the petitioner or petitioners.**

Approved June 19, 2008

SB 958 [HCS SB 958]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows rural electric cooperatives to manage vegetation within specified areas to ensure reliable service

AN ACT to repeal section 537.340, RSMo, and to enact in lieu thereof one new section relating to tree trimming.

SECTION

A. Enacting clause.

537.340. Trespass on realty — treble damages recoverable, when — rules for trimming, removing, and controlling trees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 537.340, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.340, to read as follows:

537.340. TRESPASS ON REALTY — TREBLE DAMAGES RECOVERABLE, WHEN — RULES FOR TRIMMING, REMOVING, AND CONTROLLING TREES. — **1.** If any person shall cut down, injure or destroy or carry away any tree placed or growing for use, shade or ornament, or any timber, rails or wood standing, being or growing on the land of any other person, including any governmental entity, or shall dig up, quarry or carry away any stones, ore or mineral, gravel, clay or mold, or any ice or other substance or material being a part of the realty, or any roots, fruits or plants, or cut down or carry away grass, grain, corn, flax or hemp in which such person has no interest or right, standing, lying or being on land not such person's own, or shall knowingly break the glass or any part of it in any building not such person's own, the person so offending shall pay to the party injured treble the value of the things so injured, broken, destroyed or carried away, with costs. Any person filing a claim for damages pursuant to this section need not prove negligence or intent.

2. Notwithstanding the provisions of subsection 1 of this section, the following rules shall apply to the trimming, removing, and controlling of trees and other vegetation by any electric supplier:

(1) Every electric supplier that operates electric transmission or distribution lines shall have the authority to maintain the same by trimming, removing, and controlling trees and other vegetation posing a hazard to the continued safe and reliable operation thereof;

(2) An electric supplier may exercise its authority under subdivision (1) of this subsection if the trees and other vegetation are within the legal description of any recorded easement or, in the absence of a recorded easement, the following:

(a) Within ten feet, plus one-half the length of any attached cross arm, of either side of the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line to line and located within the limits of any city; or

(b) Within thirty feet of either side of the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line to line and located outside the limits of any city; or

(c) Within fifty feet of either side of the centerline of electricity lines potentially energized between 34.5 and one hundred kilovolts measured line to line; or

(d) Within the greater of the following for any electricity lines potentially energized at one hundred kilovolts or more measured line to line:

a. Seventy-five feet to either side of the centerline; or

b. Any required clearance distance adopted by either the Federal Energy Regulatory Commission or an Electric Reliability Organization authorized by the Energy Policy Act of 2005, 16 U.S.C. Section 824o. Such exercise shall be considered reasonable and necessary for the proper and reliable operation of electric service and shall create a rebuttable presumption, in claims for property damage, that the electric supplier acted with reasonable care, operated within its rights regarding the operation and maintenance of its electricity lines, and has not committed a trespass;

(3) An electric supplier may trim, remove, and control trees and other vegetation outside the provisions in subdivision (2) of this subsection if such actions are necessary to maintain the continued safe and reliable operation of its electric lines;

(4) An electric supplier may secure from the owner or occupier of land greater authority to trim, remove, and control trees and other vegetation than the provisions set forth in subdivision (2) of this subsection and may exercise any and all rights regarding the trimming, removing, and controlling of trees and other vegetation granted in any easement held by the electric supplier;

(5) An electric supplier may trim or remove any tree of sufficient height outside the provisions of subdivision (2) of this subsection when such tree, if it were to fall, would threaten the integrity and safety of any electric transmission or distribution line and would pose a hazard to the continued safe and reliable operation thereof;

(6) Prior to the removal of any tree under the provisions of subdivision (5) of this subsection, an electric supplier shall notify the owner or occupier of land, if available, at least fourteen days prior to such removal unless either the electric supplier deems the removal to be immediately necessary to continue the safe and reliable operation of its electricity lines, or the electric supplier is trimming or removing trees and other vegetation following a major weather event or other emergency situation;

(7) If any tree which is partially trimmed by an electric supplier dies within three months as a result of said trimming, the owner or occupier of land upon which the tree was trimmed may request in writing that the electric supplier remove said tree at the electric supplier's expense. The electric supplier shall respond to such request within ninety days;

(8) Nothing in this subsection shall be interpreted as requiring any electric supplier to fully exercise the authorities granted in this subsection.

3. For purposes of this section, the term "electric supplier" means any rural electric cooperative that is subject to the provisions of chapter 394, RSMo, and any electrical corporation which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation, and which holds a certificate of public convenience and necessity to serve a majority of its customer-owners in counties of the third classification as of August 28, 2003.

Approved July 10, 2008

SB 967 [SCS SB 967]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Missouri Higher Education Loan Authority to originate federally guaranteed student loans under certain conditions

AN ACT to repeal section 173.387, RSMo, and to enact in lieu thereof one new section relating to federally guaranteed student loans, with an emergency clause.

SECTION

A. Enacting clause.

173.387. Authority may be originator of guaranteed student loan, conditions.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 173.387, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 173.387, to read as follows:

173.387. AUTHORITY MAY BE ORIGINATOR OF GUARANTEED STUDENT LOAN, CONDITIONS. — The authority [shall not, under any circumstances,] **is hereby authorized to be** the originator of any federally guaranteed student loan[, except for consolidation of existing student loans, parent loans for undergraduate students (PLUS), and upon designation by the commissioner as lender of last resort]. **Provided, however, with respect to borrowers attending higher education institutions in the state of Missouri, the authority's origination of Stafford loans under the Federal Family Education Loan Program shall not exceed ten percent of the previous year's total Missouri Federal Family Education Loan Program volume as determined by the Student Marketmeasure report, data from the United States Department of Education, or other reputable sources.**

SECTION B. EMERGENCY CLAUSE. — Because of the ongoing need for financial assistance for students pursuing higher education, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 2, 2008

SB 979 [SB 979]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Terminates eligibility for surviving spouse of public safety officer income tax credit upon remarriage

AN ACT to repeal sections 135.090 and 144.270, RSMo, and to enact in lieu thereof two new sections relating to taxation.

SECTION

- A. Enacting clause.
- 135.090. Income tax credit for surviving spouses of public safety officers.
- 144.270. Rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.090 and 144.270, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.090 and 144.270, to read as follows:

135.090. INCOME TAX CREDIT FOR SURVIVING SPOUSES OF PUBLIC SAFETY OFFICERS.

— 1. As used in this section, the following terms mean:

(1) "Homestead", the dwelling in Missouri owned by the surviving spouse and not exceeding five acres of land surrounding it as is reasonably necessary for use of the dwelling as a home. As used in this section, "homestead" shall not include any dwelling which is occupied by more than two families;

(2) "Public safety officer", any firefighter, police officer, capitol police officer, parole officer, probation officer, correctional employee, water patrol officer, park ranger, conservation

officer, commercial motor enforcement officer, emergency medical technician, first responder, or highway patrolman employed by the state of Missouri or a political subdivision thereof who is killed in the line of duty, unless the death was the result of the officer's own misconduct or abuse of alcohol or drugs;

(3) "Surviving spouse", a spouse, who has not remarried, of a public safety officer.

2. For all tax years beginning on or after January 1, 2008, a surviving spouse shall be allowed a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to the total amount of the property taxes on the surviving spouse's homestead paid during the tax year for which the credit is claimed. **A surviving spouse may claim the credit authorized under this section for each tax year beginning the year of death of the public safety officer spouse until the tax year in which the surviving spouse remarries. No credit shall be allowed for the tax year in which the surviving spouse remarries.** If the amount allowable as a credit exceeds the income tax reduced by other credits, then the excess shall be considered an overpayment of the income tax.

3. The department of revenue shall promulgate rules to implement the provisions of this section.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

5. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

144.270. RULEMAKING AUTHORITY. — For the purpose of more efficiently securing the payment of and accounting for the tax imposed by [sections 144.010 to 144.510] **this chapter**, the director of revenue shall make, promulgate and enforce reasonable rules and regulations for the administration and enforcement of the provisions of [sections 144.010 to 144.510] **this chapter**.

Approved July 10, 2008

SB 980 [SB 980]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding supplemental and disability retirement benefits for Kansas City police officers and civilian employees

AN ACT to repeal sections 86.1180, 86.1200, and 86.1560, RSMo, and section 86.1230 as enacted by senate bill no. 172, ninety-fourth general assembly, first regular session, and to enact in lieu thereof three new sections relating to the police retirement system and the civilian employees' retirement system of the police department of Kansas City.

SECTION

- A. Enacting clause.
- 86.1180. Permanent disability caused by performance of duty, retirement by board of police commissioners permitted — base pension amount — certification of disability.
- 86.1200. Permanent disability not caused by performance of duty, ten years of creditable service, retirement permitted — base pension amount — certification of disability.
- 86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.
- 86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.1180, 86.1200, and 86.1560, RSMo, and section 86.1230 as enacted by senate bill no. 172, ninety-fourth general assembly, first regular session, are repealed and three new sections enacted in lieu thereof, to be known as sections 86.1180, 86.1200, and 86.1560, to read as follows:

86.1180. PERMANENT DISABILITY CAUSED BY PERFORMANCE OF DUTY, RETIREMENT BY BOARD OF POLICE COMMISSIONERS PERMITTED — BASE PENSION AMOUNT — CERTIFICATION OF DISABILITY. — 1. Any member **in active service** who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate, and exclusive result of an accident occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to seventy-five percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.1190 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is restored to active service, such member shall contribute to this retirement

system thereafter at the same rate as other members. Upon subsequent retirement, such member shall be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such member shall be entitled to the retirement benefit to which such member would have been entitled if such member had terminated service at the time of such cessation of the disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

86.1200. PERMANENT DISABILITY NOT CAUSED BY PERFORMANCE OF DUTY, TEN YEARS OF CREDITABLE SERVICE, RETIREMENT PERMITTED — BASE PENSION AMOUNT — CERTIFICATION OF DISABILITY. — 1. Any member **in active service** who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to two and one-half percent of final compensation multiplied by the number of years of creditable service. Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

3. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board. If any nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination, his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs in the report, then such beneficiary's nonduty disability pension shall cease.

86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED. — 1. A member **in active service** who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

- (1) Duty disability, fifty percent of final compensation as of the date of disability;
- (2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;

(3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3. For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

(1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;

(2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;

(3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

4. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

5. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

[86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a special consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A

surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2008, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.]

Approved June 17, 2008

SB 991 [SB 991]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the ice cream cone as the official state dessert

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the official state dessert.

SECTION

A. Enacting clause.

10.180. Ice cream cone designated as official dessert of Missouri.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 10, RSMo, is amended by adding thereto one new section, to be known as section 10.180, to read as follows:

10.180. ICE CREAM CONE DESIGNATED AS OFFICIAL DESSERT OF MISSOURI. — The ice cream cone is selected for and shall be known as the official dessert of the state of Missouri.

Approved July 10, 2008

SB 999 [SB 999]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the Attorney General to bring an action for unlawful merchandising practices when the name of a financial institution is deceptively used

AN ACT to repeal section 427.225, RSMo, and to enact in lieu thereof one new section relating to the deceptive use of a financial institution's name.

SECTION

A. Enacting clause.

427.225. Name of financial institution, deceptive use of, when — cause of action may be brought by whom — financial institution defined — attorney general may enforce.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 427.225, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 427.225, to read as follows:

427.225. NAME OF FINANCIAL INSTITUTION, DECEPTIVE USE OF, WHEN — CAUSE OF ACTION MAY BE BROUGHT BY WHOM — FINANCIAL INSTITUTION DEFINED — ATTORNEY GENERAL MAY ENFORCE. — 1. Deceptive use of a financial institution's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:

(1) Through advertisement, solicitation, or other notification, either verbally or through any other means, informs a consumer of the availability of any type of goods or services that are not free;

(2) The name of an unrelated and unaffiliated financial institution is mentioned in any manner;

(3) The goods or services mentioned are not actually provided by the unrelated and unaffiliated financial institution whose name is mentioned;

(4) The business on whose behalf the notification or solicitation is made does not have a consensual right to mention the name of the unrelated and unaffiliated financial institution; and

(5) Neither the actual name nor trade name of the business on whose behalf the notification or solicitation is being made is stated, nor the actual name or trade name of any actual provider of the goods or services is stated, so as to clearly identify for the consumer a name that is distinguishable and separate from the name of the unrelated and unaffiliated financial institution whose name is mentioned in any manner in the notification or solicitation, and thereby a misleading implication or ambiguity is created, such that a consumer who is the recipient of the advertisement, solicitation or notification may reasonably but erroneously believe:

(a) That the goods or services whose availability is mentioned are made available by or through the unrelated and unaffiliated financial institution whose name is mentioned; or

(b) That the unrelated and unaffiliated financial institution whose name is mentioned is the one communicating with the consumer.

2. Deceptive use of another's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:

(1) Falsely states or implies that any person, product or service is recommended or endorsed by a named third-person financial institution; or

(2) Falsely states that information about the consumer including but not limited to the name, address, or phone number of the consumer has been provided by a third-person financial institution, whether that person is named or unnamed.

3. [Only] The financial institution whose name is deceptively used, as provided in this section, may bring a private civil action and recover a minimum amount of ten thousand dollars, court costs, and attorney fees plus any damages such financial institution may prove at trial.

4. For the purposes of this section, a financial institution includes a commercial bank, savings and loan association, savings bank, credit union, mortgage banker, or consumer finance company, or an institution chartered pursuant to the provisions of an act of the United States known as the Farm Credit Act of 1971.

5. Nothing contained in this section shall bar the attorney general from enforcing the provisions of sections 407.010 to 407.145, RSMo.

Approved June 25, 2008

SB 1002 [HCS SB 1002]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the penalties for certain zoning violations

AN ACT to repeal section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to zoning violation remedies, with penalty provisions.

SECTION

A. Enacting clause.

89.120. Violations — penalties.

89.120. Violations — penalties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, is repealed and one new section enacted in lieu thereof, to be known as section 89.120, to read as follows:

89.120. VIOLATIONS — PENALTIES. — 1. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful

erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of sections 89.010 to 89.140.

2. The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation, or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable as follows:

(1) In any [municipality contained wholly or partially within a county] **city** with [a population of over six hundred thousand and less than nine] **more than three** hundred thousand **inhabitants**, by a fine of not less than ten dollars and not more than five hundred dollars for each and every day that such violation continues, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of section 82.300, RSMo, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than two hundred and fifty dollars or more than one thousand dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court;

(2) In all other municipalities, by a fine of not less than ten dollars and not more than [one] **two hundred fifty** dollars for each and every day that such violation continues, [but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars or more than two hundred and fifty dollars for each and every day that such violation shall continue] or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. **Notwithstanding the provisions of section 82.300, RSMo, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.**

3. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

[89.120. VIOLATIONS — PENALTIES. — 1. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place or premises

to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made pursuant to the authority of sections 89.010 to 89.140.

2. Except as provided in subsection 4 of this section, the owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of section 82.300, RSMo, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.

3. Any such person who having been served with an order to remove any such violation shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

4. In a city with a population of more than three hundred fifty thousand, the owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.]

Approved June 25, 2008

SB 1009 [SCS SB 1009]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the current legal requirement that funds conveyed to settlement agents in real estate closings be certified funds

AN ACT to repeal section 381.412, RSMo, and to enact in lieu thereof one new section relating to the acceptance of funds by settlement agents, with an emergency clause.

SECTION

- A. Enacting clause.
- 381.412. Settlement agents, accepting funds, exemption — title insurer, deposit of funds — violation, fine.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 381.412, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 381.412, to read as follows:

381.412. SETTLEMENT AGENTS, ACCEPTING FUNDS, EXEMPTION — TITLE INSURER, DEPOSIT OF FUNDS — VIOLATION, FINE. — 1. A settlement agent who accepts funds of **more than two thousand five hundred dollars** for closing a [sale of an interest in] real estate **transaction** shall require a buyer, seller, or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. A check shall be exempt from the provisions of this section if drawn on:

- (1) An escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo; or
- (2) An escrow account of a title insurer or title insurance agency licensed to do business in Missouri; or
- (3) An agency of the United States of America, the state of Missouri, or any county or municipality of the state of Missouri; or
- (4) An account by a financial institution.

2. It is unlawful for any title insurer, title agency, or title agent, as defined in section 381.009, to make any payment, disbursement or withdrawal from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

- (1) At least ten days prior to such payment, disbursement, or withdrawal; or
- (2) Which consisted of certified funds; or
- (3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. A violation of any provision of this section is a level two violation under section 374.049, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to facilitate real estate transactions in this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 10, 2008

SB 1016 [SB 1016]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that a portion of the tort victims' compensation fund shall be transferred to the basic civil legal services fund

AN ACT to repeal section 537.675, RSMo, and to enact in lieu thereof one new section relating to distribution of a portion of the tort victims' compensation fund.

SECTION

A. Enacting clause.

537.675. Tort victims' compensation fund established — definitions — notification of punitive damage award to attorney general, lien for deposit into fund — legal services for low-income people.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 537.675, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.675, to read as follows:

537.675. TORT VICTIMS' COMPENSATION FUND ESTABLISHED — DEFINITIONS — NOTIFICATION OF PUNITIVE DAMAGE AWARD TO ATTORNEY GENERAL, LIEN FOR DEPOSIT INTO FUND — LEGAL SERVICES FOR LOW-INCOME PEOPLE. — 1. As used in sections 537.675 through 537.693, the following terms mean:

(1) "Annual claims", that period of time commencing on the first day of January of every year after December 31, 2002, and ending on the last day of that calendar year;

(2) "Commission", the labor and industrial relations commission;

(3) "Division", the division of workers' compensation;

(4) "Initial claims period", that period commencing on August 28, 2001, and ending on December 31, 2002;

(5) "Punitive damage final judgment", an award for punitive damages excluding interest that is no longer subject to review by courts of this state or of the United States;

(6) "Uncompensated tort victim", a person who:

(a) Is a party in a personal injury or wrongful death lawsuit; or is a tort victim whose claim against the tort-feasor has been settled for the policy limits of insurance covering the liability of such tort-feasor and such policy limits are inadequate in light of the nature and extent of damages due to the personal injury or wrongful death;

(b) Unless described in paragraph (a) of this subdivision:

a. Has obtained a final monetary judgment in that lawsuit described in paragraph (a) of this subdivision against a tort-feasor for personal injuries, or wrongful death in a case in which all appeals are final;

b. Has exercised due diligence in enforcing the judgment; and

c. Has not collected the full amount of the judgment;

(c) Is not a corporation, company, partnership or other incorporated or unincorporated commercial entity;

(d) Is not any entity claiming a right of subrogation;

(e) Was not on house arrest and was not confined in any federal, state, regional, county or municipal jail, prison or other correctional facility at the time he or she sustained injury from the tort-feasor;

(f) Has not pleaded guilty to or been found guilty of two or more felonies, where such two or more felonies occurred within ten years of the occurrence of the tort in question, and where either of such felonies involved a controlled substance or an act of violence; and

(g) Is a resident of the state of Missouri or sustained personal injury or death by a tort which occurred in the state of Missouri.

2. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the fund shall not lapse at the end of the biennium as provided in section 33.080, RSMo.

3. Any party receiving a judgment final for purposes of appeal for punitive damages in any case filed in any division of any circuit court of the state of Missouri shall notify the attorney general of the state of Missouri of such award, except for actions claiming improper health care pursuant to chapter 538, RSMo. The state of Missouri shall have a lien for deposit into the tort victims' compensation fund to the extent of fifty percent of the punitive damage final judgment which shall attach in any such case after deducting attorney's fees and expenses. In each case, the attorney general shall serve a lien notice by certified mail or registered mail upon the party

or parties against whom the state has a claim for collection of its share of a punitive damage final judgment. On a petition filed by the state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties and enforce the lien. The lien shall not be satisfied out of any recovery until the attorney's claim for fees and expenses is paid. The state can file its lien in all cases where punitive damages are awarded upon the entry of the judgment final for purposes of appeal. The state cannot enforce its lien until there is a punitive damage final judgment. Cases resolved by arbitration, mediation or compromise settlement prior to a punitive damage final judgment are exempt from the provisions of this section. Nothing in this section shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim or litigation on any terms and at any time the parties desire.

4. The state of Missouri shall have no interest in or right to intervene at any stage of any judicial proceeding pursuant to this section, except to enforce its lien rights as provided in subsection 3 of this section.

5. [There is hereby established in the state treasury the "Legal Services for Low-Income People Fund", which shall consist of twenty-six percent of all payments received into the tort victims' compensation fund and all interest accruing on the principal, regardless of source or designation including twenty-six percent of the money that upon August 28, 2001, is in the tort victims' compensation fund. Moneys, funds or payments paid to the credit of the legal services for low-income people fund shall, at least as often as annually, upon appropriation, be distributed to the legal services organizations in Missouri which are recipients of federal Legal Services Corporation funding and shall be used for no other purpose than as authorized pursuant to sections 537.675 to 537.693. The funds so distributed shall be used by legal services organizations in Missouri solely to provide legal services to its low-income population. Funds shall be allocated according to the most recent official census data from the Bureau of Census, United States Department of Commerce for people in poverty residing in Missouri. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the legal services for low-income people fund at the end of any biennium shall not be transferred to general revenue, but shall remain in the fund and be distributed in accordance with the provisions of this section.] **Twenty-six percent of all payments deposited into the tort victims' compensation fund, all interest accruing on the principal regardless of source or designation, and any moneys remaining in the legal services for low-income people fund as of August 28, 2008, shall be transferred to the basic civil legal services fund established in section 477.650, RSMo.** Moneys in the tort victims' compensation fund shall not be used to pay any portion of a refund mandated by article X, section 18 of the constitution.

Approved June 25, 2008

SB 1033 [HCS SCS SB 1033]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals certain provisions regarding transfers of title of real property to counties by donation or dedication

AN ACT to repeal section 49.292, RSMo, and to enact in lieu thereof one new section relating to transfers of real property to counties.

SECTION

- A. Enacting clause.
 - 49.292. Rejection of transfer of real property by donation or dedication authorized, when — proof and acknowledgment required.
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Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 49.292, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 49.292, to read as follows:

49.292. REJECTION OF TRANSFER OF REAL PROPERTY BY DONATION OR DEDICATION AUTHORIZED, WHEN — PROOF AND ACKNOWLEDGMENT REQUIRED. — 1. Notwithstanding any other law to the contrary, the county commission of any county may reject the transfer of title of real property to the county by donation or dedication if the commission determines that such rejection is in the public interest of the county.

2. No transfer of title of real property to the county commission or any other political subdivision by donation or dedication authorized to be recorded in the office of the recorder of deeds shall be valid unless it has been proved or acknowledged. The preparer of the document relating to subsection 1 of this section shall not submit a document to the recorder of deeds for recording unless the acceptance thereof of the grantee named in the document has been proved or acknowledged. **No water or sewer line easement shall be construed as a transfer of title of real property under this subsection.**

Approved June 25, 2008

SB 1034 [HCS SCS SBs 1034 & 802]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies record-keeping requirements for purchasers of scrap metal and creates penalties for unlawful purchases of certain scrap metals

AN ACT to repeal section 407.300, RSMo, and to enact in lieu thereof five new sections relating to scrap metal, with penalty provisions.

SECTION

A. Enacting clause.

407.300. Copper wire or cable, collectors and dealers to keep register, information required — penalty — exempt transactions.

407.301. Metal beer keg, prohibition on purchase or possession by scrap metal dealer — violation, penalty.

407.302. Metal belonging to cemeteries, political subdivisions, electric cooperatives, and utilities — scrap yard not to purchase — violation, penalty.

407.303. Scrap metal dealers — payments in excess of \$500 to be made by check — exceptions.

570.055. Wire, device, or pipe associated with conducting electricity or transporting combustible fuel — possession of prohibited, when — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 407.300, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 407.300, 407.301, 407.302, 407.303, and 570.055, to read as follows:

407.300. COPPER WIRE OR CABLE, COLLECTORS AND DEALERS TO KEEP REGISTER, INFORMATION REQUIRED — PENALTY — EXEMPT TRANSACTIONS. — 1. Every **purchaser or collector of, or dealer in, junk, scrap metal, or any secondhand property** shall keep a register [which shall contain the name and address of the person from whom] **containing a written or electronic record for each purchase or trade in which each type of metal subject to the**

provisions of this section is obtained for value. There shall be a separate record for each transaction involving any:

- (1) Copper, brass, or bronze;
- (2) Aluminum wire [or is purchased,], cable, pipe, tubing, bar, ingot, rod, fitting, or fastener; or

(3) Material containing copper or aluminum that is knowingly used for farming purposes as "farming" is defined in section 350.010, RSMo; whatever may be the condition or length of such [copper wire or cable] metal. The record shall contain the following data: A copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the material is obtained, which shall contain a current address of the person from whom the material is obtained; [the residence or place of business and driver's license number of such person;] and the date, time, and place of and a full description of each such purchase or trade including the quantity by weight thereof; and shall permit any peace officer to inspect the register at any reasonable time].

2. The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement officer.

3. Anyone convicted of violating this section shall be [fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than six months, or both] guilty of a class A misdemeanor.

4. This section shall not apply to any of the following transactions:

(1) Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars;

(2) Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or

(3) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.

407.301. METAL BEER KEG, PROHIBITION ON PURCHASE OR POSSESSION BY SCRAP METAL DEALER — VIOLATION, PENALTY. — 1. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut, or otherwise alter scrap metal except when the purchase is from the brewer or its authorized representative. For purposes of this section, "keg" shall have the same meaning as in section 311.082, RSMo.

2. Anyone who is found guilty of, or pleads guilty to, violating this section shall be guilty of a class A misdemeanor punishable only by fine. Nothing in this section shall be construed to preclude a person violating this section from also being prosecuted for any applicable criminal offense.

407.302. METAL BELONGING TO CEMETERIES, POLITICAL SUBDIVISIONS, ELECTRIC COOPERATIVES, AND UTILITIES — SCRAP YARD NOT TO PURCHASE — VIOLATION, PENALTY. — 1. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery or to a political subdivision or electrical cooperative, municipal utility, or a utility regulated under chapter 386 or 393, RSMo, including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political

subdivision, electrical cooperative or utility, or manufacturer of the metal or item described in this section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, electrical cooperative or utility, or manufacturer to sell the metal.

2. Anyone convicted of violating this section shall be guilty of a class B misdemeanor.

407.303. SCRAP METAL DEALERS — PAYMENTS IN EXCESS OF \$500 TO BE MADE BY CHECK — EXCEPTIONS. — 1. Any scrap metal dealer paying out an amount that is five hundred dollars or more shall make such payment in the form of a check or shall pay by any method in which a financial institution makes and retains a record of the transaction.

2. This section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.

570.055. WIRE, DEVICE, OR PIPE ASSOCIATED WITH CONDUCTING ELECTRICITY OR TRANSPORTING COMBUSTIBLE FUEL — POSSESSION OF PROHIBITED, WHEN — PENALTY. — Any person who steals or appropriates, without consent of the owner, any wire, electrical transformer, metallic wire associated with transmitting telecommunications, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels shall be guilty of a class C felony.

Approved May 21, 2008

SB 1038 [SB 1038]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals campaign contribution limits and modifies reporting requirements

AN ACT to repeal sections 130.016, 130.021, 130.037, 130.050 and 130.072, RSMo, and section 130.032 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 16, eighty-ninth general assembly, first regular session, and section 130.032 as enacted by conference committee substitute for senate substitute for house committee substitute for house bill no. 1900, ninety-third general assembly, second regular session, and to enact in lieu thereof six new sections relating to campaign finance.

SECTION

A. Enacting clause.

- 130.016. Certain candidates exempt from filing requirements — procedure for exemption — restrictions on subsequent contributions and expenditures — rejection of exemption — candidate committees for certain general assembly leadership offices prohibited.
- 130.021. Treasurer for candidates and committees, when required — duties — official depository account to be established — statement of organization for committees, contents, when filed — termination of committee, procedure.
- 130.037. Two candidate's committees may be formed — committee for paying off past debts only, restrictions, reports required — committee to raise funds for future.
- 130.044. Certain contributions to be reported within 48 hours of receipt — rulemaking authority.
- 130.050. Out-of-state committees, reporting, contents — late contribution or loan, defined.
- 130.072. Fines for violations — limitation.
- 130.032. Monetary contributions from political party committees prohibited — contributions not to be accepted during legislative session, exception.

130.032. Monetary contributions from political party committees prohibited — contributions not to be accepted during legislative session, exception.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 130.016, 130.021, 130.037, 130.050 and 130.072, RSMo, and section 130.032 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 16, eighty-ninth general assembly, first regular session, and section 130.032 as enacted by conference committee substitute for senate substitute for house committee substitute for house bill no. 1900, ninety-third general assembly, second regular session, are repealed and six new sections enacted in lieu thereof, to be known as sections 130.016, 130.021, 130.037, 130.044, 130.050 and 130.072 to read as follows:

130.016. CERTAIN CANDIDATES EXEMPT FROM FILING REQUIREMENTS — PROCEDURE FOR EXEMPTION — RESTRICTIONS ON SUBSEQUENT CONTRIBUTIONS AND EXPENDITURES — REJECTION OF EXEMPTION — CANDIDATE COMMITTEES FOR CERTAIN GENERAL ASSEMBLY LEADERSHIP OFFICES PROHIBITED. — 1. No candidate for statewide elected office, general assembly, or municipal office in a city with a population of more than one hundred thousand shall be required to comply with the requirements to file a statement of organization or disclosure reports of contributions and expenditures for any election in which neither the aggregate of contributions received nor the aggregate of expenditures made on behalf of such candidate exceeds five hundred dollars and no single contributor, other than the candidate, has contributed more than [the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032] **three hundred twenty-five dollars**, provided that:

(1) The candidate files a sworn exemption statement with the appropriate officer that the candidate does not intend to either receive contributions or make expenditures in the aggregate of more than five hundred dollars or receive contributions from any single contributor, other than the candidate, that aggregate more than [the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032] **three hundred twenty-five dollars**, and that the total of all contributions received or expenditures made by the candidate and all committees or any other person with the candidate's knowledge and consent in support of the candidacy will not exceed five hundred dollars and that the aggregate of contributions received from any single contributor will not exceed the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032. Such exemption statement shall be filed no later than the date set forth in section 130.046 on which a disclosure report would otherwise be required if the candidate does not file the exemption statement. The exemption statement shall be filed on a form furnished to each appropriate officer by the executive director of the Missouri ethics commission. Each appropriate officer shall make the exemption statement available to candidates and shall direct each candidate's attention to the exemption statement and explain its purpose to the candidate; and

(2) The sworn exemption statement includes a statement that the candidate understands that records of contributions and expenditures must be maintained from the time the candidate first receives contributions or makes expenditures and that an exemption from filing a statement of organization or disclosure reports does not exempt the candidate from other provisions of this chapter. Each candidate described in this subsection who files a statement of exemption shall file a statement of limited activity for each reporting period described in section 130.046.

2. Any candidate who has filed an exemption statement as provided in subsection 1 of this section shall not accept any contribution or make any expenditure in support of the person's candidacy, either directly or indirectly or by or through any committee or any other person acting with the candidate's knowledge and consent, which would cause such contributions or

expenditures to exceed the limits specified in subdivision (1) of subsection 1 of this section unless the candidate later rejects the exemption pursuant to subsection 3 of this section. Any contribution received in excess of such limits shall be returned to the donor or transmitted to the state treasurer to escheat to the state.

3. If, after filing the exemption statement provided for in this section, the candidate subsequently determines the candidate wishes to exceed any of the limits in subdivision (1) of subsection 1 of this section, the candidate shall file a notice of rejection of the exemption with the appropriate officer; however, such rejection shall not be filed later than thirty days before election. A notice of rejection of exemption shall be accompanied by a statement of organization as required by section 130.021 and any other statements and reports which would have been required if the candidate had not filed an exemption statement.

4. A primary election and the immediately succeeding general election are separate elections, and restrictions on contributions and expenditures set forth in subsection 2 of this section shall apply to each election; however, if a successful primary candidate has correctly filed an exemption statement prior to the primary election and has not filed a notice of rejection prior to the date on which the first disclosure report applicable to the succeeding general election is required to be filed, the candidate shall not be required to file an exemption statement for that general election if the limitations set forth in subsection 1 of this section apply to the succeeding general election.

5. A candidate who has an existing candidate committee formed for a prior election for which all statements and reports required by this chapter have been properly filed shall be eligible to file the exemption statement as provided in subsection 1 of this section and shall not be required to file the disclosure reports pertaining to the election for which the candidate is eligible to file the exemption statement if the candidate and the treasurer or deputy treasurer of such existing candidate committee continue to comply with the requirements, limitations and restrictions set forth in subsections 1, 2, 3 and 4 of this section. The exemption permitted by this subsection does not exempt a candidate or the treasurer of the candidate's existing candidate committee from complying with the requirements of subsections 6 and 7 of section 130.046 applicable to a prior election.

6. No candidate for supreme court, circuit court, or associate circuit court, or candidate for political party office, or for county office or municipal office in a city of one hundred thousand or less, or for any special purpose district office shall be required to file an exemption statement pursuant to this section in order to be exempted from forming a committee and filing disclosure reports required of committees pursuant to this chapter if the aggregate of contributions received or expenditures made by the candidate and any other person with the candidate's knowledge and consent in support of the person's candidacy does not exceed one thousand dollars and the aggregate of contributions from any single contributor does not exceed [the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032] **three hundred twenty-five dollars**. No candidate for any office listed in this subsection shall be excused from complying with the provisions of any section of this chapter, other than the filing of an exemption statement under the conditions specified in this subsection.

7. If any candidate for an office listed in subsection 6 of this section exceeds the limits specified in subsection 6 of this section, the candidate shall form a committee no later than thirty days prior to the election for which the contributions were received or expended which shall comply with all provisions of this chapter for committees.

8. No member of or candidate for the general assembly shall form a candidate committee for the office of speaker of the house of representatives or president pro tem of the senate.

130.021. TREASURER FOR CANDIDATES AND COMMITTEES, WHEN REQUIRED — DUTIES — OFFICIAL DEPOSITORY ACCOUNT TO BE ESTABLISHED — STATEMENT OF ORGANIZATION FOR COMMITTEES, CONTENTS, WHEN FILED — TERMINATION OF COMMITTEE, PROCEDURE.

— 1. Every committee shall have a treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state **and reside in the district or county in which the committee sits**. A committee may also have a deputy treasurer who, except as provided in subsection 10 of this section, shall be a resident of this state **and reside in the district or county in which the committee sits**, to serve in the capacity of committee treasurer in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed a statement of exemption pursuant to that subsection and every candidate for offices listed in subsection 6 of section 130.016 who is not excluded from filing a statement of organization and disclosure reports pursuant to subsection 6 shall form a candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all further contributions received by such candidate and any of the candidate's own funds to be used in support of the person's candidacy shall be deposited in a candidate committee depository account established pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made through the candidate, treasurer or deputy treasurer of the person's candidate committee. Nothing in this chapter shall prevent a candidate from appointing himself or herself as a committee of one and serving as the person's own treasurer, maintaining the candidate's own records and filing all the reports and statements required to be filed by the treasurer of a candidate committee.

3. A candidate who has more than one candidate committee supporting the person's candidacy shall designate one of those candidate committees as the committee responsible for consolidating the aggregate contributions to all such committees under the candidate's control and direction as required by section 130.041.

4. (1) Every committee shall have a single official fund depository within this state which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan association, or a federally or state-chartered credit union in which the committee shall open and thereafter maintain at least one official depository account in its own name. An "official depository account" shall be a checking account or some type of negotiable draft or negotiable order of withdrawal account, and the official fund depository shall, regarding an official depository account, be a type of financial institution which provides a record of deposits, canceled checks or other canceled instruments of withdrawal evidencing each transaction by maintaining copies within this state of such instruments and other transactions. All contributions which the committee receives in money, checks and other negotiable instruments shall be deposited in a committee's official depository account. Contributions shall not be accepted and expenditures shall not be made by a committee except by or through an official depository account and the committee treasurer, deputy treasurer or candidate. Contributions received by a committee shall not be commingled with any funds of an agent of the committee, a candidate or any other person, except that contributions from a candidate of the candidate's own funds to the person's candidate committee shall be deposited to an official depository account of the person's candidate committee. No expenditure shall be made by a committee when the office of committee treasurer is vacant except that when the office of a candidate committee treasurer is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a committee's official depository account and deposit such funds in one or more savings accounts in the committee's name in any bank, savings and loan association or credit union within this state, and may also withdraw funds from an official depository account for investment in the committee's name in any certificate of deposit, bond or security. Proceeds from interest or dividends from a savings account or other investment or proceeds from withdrawals from a savings account or from the sale of an investment shall not be expended or reinvested, except in the case of renewals of certificates of deposit, without first redepositing such proceeds in an official depository account. Investments, other than savings accounts, held outside the committee's official depository account at any time during a reporting period shall be disclosed by description, amount, any identifying numbers and the name and address of any institution or

person in which or through which it is held in an attachment to disclosure reports the committee is required to file. Proceeds from an investment such as interest or dividends or proceeds from its sale, shall be reported by date and amount. In the case of the sale of an investment, the names and addresses of the persons involved in the transaction shall also be stated. Funds held in savings accounts and investments, including interest earned, shall be included in the report of money on hand as required by section 130.041.

5. The treasurer or deputy treasurer acting on behalf of any person or organization or group of persons which is a committee by virtue of the definitions of "committee" in section 130.011 and any candidate who is not excluded from forming a committee in accordance with the provisions of section 130.016 shall file a statement of organization with the appropriate officer within twenty days after the person or organization becomes a committee but no later than the date for filing the first report required pursuant to the provisions of section 130.046. The statement of organization shall contain the following information:

(1) The name, mailing address and telephone number, if any, of the committee filing the statement of organization. If the committee is deemed to be affiliated with a connected organization as provided in subdivision (11) of section 130.011, the name of the connected organization, or a legally registered fictitious name which reasonably identifies the connected organization, shall appear in the name of the committee. If the committee is a candidate committee, the name of the candidate shall be a part of the committee's name;

(2) The name, mailing address and telephone number of the candidate;

(3) The name, mailing address and telephone number of the committee treasurer, and the name, mailing address and telephone number of its deputy treasurer if the committee has named a deputy treasurer;

(4) The names, mailing addresses and titles of its officers, if any;

(5) The name and mailing address of any connected organizations with which the committee is affiliated;

(6) The name and mailing address of its depository, and the name and account number of each account the committee has in the depository;

(7) Identification of the major nature of the committee such as a candidate committee, campaign committee, continuing committee, political party committee, incumbent committee, or any other committee according to the definition of "committee" in section 130.011;

(8) In the case of the candidate committee designated in subsection 3 of this section, the full name and address of each other candidate committee which is under the control and direction of the same candidate, together with the name, address and telephone number of the treasurer of each such other committee;

(9) The name and office sought of each candidate supported or opposed by the committee;

(10) The ballot measure concerned, if any, and whether the committee is in favor of or opposed to such measure.

6. A committee may omit the information required in subdivisions (9) and (10) of subsection 5 of this section if, on the date on which it is required to file a statement of organization, the committee has not yet determined the particular candidates or particular ballot measures it will support or oppose. [Any contribution received over the allowable contribution limits described in section 130.032 shall be returned to the contributor by the committee within five business days of the declaration of candidacy or position on a candidate or a particular ballot measure of the committee.]

7. A committee which has filed a statement of organization and has not terminated shall not be required to file another statement of organization, except that when there is a change in any of the information previously reported as required by subdivisions (1) to (8) of subsection 5 of this section an amended statement of organization shall be filed within twenty days after the change occurs, but no later than the date of the filing of the next report required to be filed by that committee by section 130.046.

8. Upon termination of a committee, a termination statement indicating dissolution shall be filed not later than ten days after the date of dissolution with the appropriate officer or officers with whom the committee's statement of organization was filed. The termination statement shall include: the distribution made of any remaining surplus funds and the disposition of any deficits; and the name, mailing address and telephone number of the individual responsible for preserving the committee's records and accounts as required in section 130.036.

9. Any statement required by this section shall be signed and attested by the committee treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

10. A committee domiciled outside this state shall be required to file a statement of organization and appoint a treasurer residing in this state and open an account in a depository within this state; provided that either of the following conditions prevails:

(1) The aggregate of all contributions received from persons domiciled in this state exceeds twenty percent in total dollar amount of all funds received by the committee in the preceding twelve months; or

(2) The aggregate of all contributions and expenditures made to support or oppose candidates and ballot measures in this state exceeds one thousand five hundred dollars in the current calendar year.

11. If a committee domiciled in this state receives a contribution of one thousand five hundred dollars or more from any committee domiciled outside of this state, the committee domiciled in this state shall file a disclosure report with the commission. The report shall disclose the full name, mailing address, telephone numbers and domicile of the contributing committee and the date and amount of the contribution. The report shall be filed within forty-eight hours of the receipt of such contribution if the contribution is received after the last reporting date before the election.

12. Each legislative and senatorial district committee shall retain only one address in the district it sits for the purpose of receiving contributions.

130.037. TWO CANDIDATE'S COMMITTEES MAY BE FORMED — COMMITTEE FOR PAYING OFF PAST DEBTS ONLY, RESTRICTIONS, REPORTS REQUIRED — COMMITTEE TO RAISE FUNDS FOR FUTURE. — Any candidate may file a supplemental report containing information required pursuant to section 130.041, for the purposes of this section. Candidates whose supplemental report filed within thirty days of August 28, 1997, or whose report filed pursuant to subdivision (2) of subsection 1 of section 130.046 reflects outstanding obligations in excess of moneys on hand, may convert their campaign committee to a debt service committee as provided in this section. If a debt service committee is formed, the committee may accept contributions from any person [as long as the aggregate contribution from such person does not exceed the limits set, pursuant to section 130.032, for the aggregating period, pursuant to subdivision (1) of subsection 2 of section 130.041, in which the debt was incurred]. A person who contributes to a debt service committee of a candidate may also contribute to the candidate's campaign committee for a succeeding election [up to the amounts specified in section 130.032]. The treasurer and the candidate shall terminate the debt service committee pursuant to section 130.021 when the contributions received exceed the amount of the debt, and within thirty days the committee shall file disclosure reports pursuant to section 130.041 and shall return any excess moneys received to the contributor or contributors, if known, otherwise such moneys shall escheat to the state. No debt service committee shall be in existence more than eighteen months.

130.044. CERTAIN CONTRIBUTIONS TO BE REPORTED WITHIN 48 HOURS OF RECEIPT — RULEMAKING AUTHORITY. — **1. All individuals and committees required to file disclosure reports under section 130.041 shall electronically report any contribution by any single contributor which exceeds five thousand dollars to the Missouri ethics commission within forty eight hours of receiving the contribution. Such reports shall contain the same content required under section 130.041 and shall be filed in accordance with the standards**

established by the commission for electronic filing and other rules the commission may deem necessary to promulgate for the effective administration of this section.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

130.050. OUT-OF-STATE COMMITTEES, REPORTING, CONTENTS — LATE CONTRIBUTION OR LOAN, DEFINED. — 1. An out-of-state committee which, according to the provisions of subsection 10 of section 130.021, is not required to file a statement of organization and is not required to file the full disclosure reports required by section 130.041 shall file reports with the Missouri ethics commission according to the provisions of this subsection if the committee makes contributions or expenditures in support of or in opposition to candidates or ballot measures in this state in any election covered by this chapter or makes contributions to any committee domiciled in this state. An initial report shall be filed on or within fourteen days prior to the date such out-of-state committee first makes a contribution or expenditure in this state, and thereafter reports shall be filed at the times and for the reporting periods prescribed in subsection 1 of section 130.046. Each report shall contain:

(1) The full name, address and domicile of the committee making the report and the name, residential and business addresses, domicile and telephone numbers of the committee's treasurer;

(2) The name and address of any entity such as a labor union, trade or business or professional association, club or other organization or any business entity with which the committee is affiliated;

(3) A statement of the total dollar amount of all funds received by the committee in the current calendar year and a statement of the total contributions in the same period from persons domiciled in this state and a list by name, address, date and amount of each Missouri resident who contributed an aggregate of more than two hundred dollars in the current calendar year;

(4) A list by name, address, date and amount regarding any contributor to the out-of-state committee, regardless of state of residency, who made a contribution during the reporting period [which was restricted or designated in whole or in part for use in supporting or opposing a candidate, ballot measure or committee in this state or was restricted for use in this state at the committee's discretion, or a statement that no such contributions were received];

(5) A statement as to whether the committee is required to file reports with the Federal Election Commission, and a listing of agencies in other states with which the committee files reports, if any;

(6) A separate listing showing contributions made in support of or opposition to each candidate or ballot measure in this state, together with the date and amount of each contribution;

(7) A separate listing showing contributions made to any committee domiciled in this state with the date and amount of each contribution.

2. In the case of a political party committee's selection of an individual to be the party's nominee for public office in an election covered by this chapter, any individual who seeks such nomination and who is a candidate according to the definition of the term candidate in section 130.011 shall be required to comply with all requirements of this chapter; except that, for the purposes of this subsection, the reporting dates and reporting periods in section 130.046 shall not apply, and the first reporting date shall be no later than the fifteenth day after the date on which a nomination covered by this subsection was made and for the period beginning on the date the individual became a candidate, as the term candidate is defined in section 130.011, and closing

on the tenth day after the date the nomination was made, with subsequent reports being made as closely as practicable to the times required in section 130.046.

3. The receipt of any late contribution or loan of more than two hundred fifty dollars by a candidate committee supporting a candidate for statewide office or by any other committee shall be reported to the appropriate officer no later than twenty-four hours after receipt. For purposes of this subsection the term "late contribution or loan" means a contribution or loan received after the closing date of the last disclosure report required to be filed before an election but received prior to the date of the election itself. The disclosure report of a late contribution may be made by any written means of communication, setting forth the name and address of the contributor or lender and the amount of the contribution or loan and need not contain the signatures and certification required for a full disclosure report described in section 130.041. A late contribution or loan shall be included in subsequent disclosure reports without regard to any special reports filed pursuant to this subsection.

130.072. FINES FOR VIOLATIONS — LIMITATION. — Any person who knowingly accepts or makes a contribution or makes an expenditure in violation of any provision of this chapter or who knowingly conceals a contribution or expenditure by filing a false or incomplete report or by not filing a required report, in addition to or in the alternative to any other penalty imposed by this chapter, [may] **shall** be held liable to the state in civil penalties in [twice the] **an** amount [of] **equal to** any such contribution or expenditure[, not to exceed a total amount of five thousand dollars].

[130.032. MONETARY CONTRIBUTIONS FROM POLITICAL PARTY COMMITTEES PROHIBITED — CONTRIBUTIONS NOT TO BE ACCEPTED DURING LEGISLATIVE SESSION, EXCEPTION. — 1. Monetary contributions shall not be made from any political party committee as defined in subdivision (25) of section 130.011 to any candidate committee, continuing committee, or political party committee. Nothing in this section shall be construed to limit any candidate committee from making contributions to any other committee.

2. Any candidate for the office of state representative, the office of state senator, or a statewide elected office shall not accept any contributions from the first Wednesday after the first Monday in January through the first Friday after the second Monday of May of each year at 6:00 p.m. Only candidates for special election to the house of representatives, senate, or statewide elected office may, during such time, accept contributions from the date of the candidate's nomination by his or her respective political party until thirty days after the date of the election.]

[130.032. MONETARY CONTRIBUTIONS FROM POLITICAL PARTY COMMITTEES PROHIBITED — CONTRIBUTIONS NOT TO BE ACCEPTED DURING LEGISLATIVE SESSION, EXCEPTION. — 1. In addition to the limitations imposed pursuant to section 130.031, the amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following:

- (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor or attorney general, one thousand dollars;
- (2) To elect an individual to the office of state senator, five hundred dollars;
- (3) To elect an individual to the office of state representative, two hundred fifty dollars;
- (4) To elect an individual to any other office, including judicial office, if the population of the electoral district, ward, or other unit according to the latest decennial census is under one hundred thousand, two hundred fifty dollars;
- (5) To elect an individual to any other office, including judicial office, if the population of the electoral district, ward, or other unit according to the latest decennial census is at least one hundred thousand but less than two hundred fifty thousand, five hundred dollars; and

(6) To elect an individual to any other office, including judicial office, if the population of the electoral district, ward, or other unit according to the latest decennial census is at least two hundred fifty thousand, one thousand dollars.

2. For purposes of this subsection "base year amount" shall be the contribution limits prescribed in this section on January 1, 1995. Such limits shall be increased on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index, as defined in section 104.010, RSMo, and rounded to the nearest twenty-five-dollar amount, for all years since January 1, 1995.

3. Candidate committees, exploratory committees, campaign committees and continuing committees, other than those continuing committees which are political party committees, shall be subject to the limits prescribed in subsection 1 of this section. The provisions of this subsection shall not limit the amount of contributions which may be accumulated by a candidate committee and used for expenditures to further the nomination or election of the candidate who controls such candidate committee, except as provided in section 130.052.

4. Except as limited by this subsection, the amount of cash contributions, and a separate amount for the amount of in-kind contributions, made by or accepted from a political party committee in any one election shall not exceed the following:

(1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor or attorney general, ten thousand dollars;

(2) To elect an individual to the office of state senator, five thousand dollars;

(3) To elect an individual to the office of state representative, two thousand five hundred dollars; and

(4) To elect an individual to any other office of an electoral district, ward or unit, ten times the allowable contribution limit for the office sought. The amount of contributions which may be made by or accepted from a political party committee in the primary election to elect any candidate who is unopposed in such primary shall be fifty percent of the amount of the allowable contributions as determined in this subsection.

5. Contributions from persons under fourteen years of age shall be considered made by the parents or guardians of such person and shall be attributed toward any contribution limits prescribed in this chapter. Where the contributor under fourteen years of age has two custodial parents or guardians, fifty percent of the contribution shall be attributed to each parent or guardian, and where such contributor has one custodial parent or guardian, all such contributions shall be attributed to the custodial parent or guardian.

6. Contributions received and expenditures made prior to January 1, 1995, shall be reported as a separate account and pursuant to the laws in effect at the time such contributions are received or expenditures made. Contributions received and expenditures made after January 1, 1995, shall be reported as a separate account from the aforementioned account and pursuant to the provisions of this chapter. The account reported pursuant to the prior law shall be retained as a separate account and any remaining funds in such account may be used pursuant to this chapter and section 130.034.

7. Any committee which accepts or gives contributions other than those allowed shall be subject to a surcharge of one thousand dollars plus an amount equal to the contribution per nonallowable contribution, to be paid to the ethics commission and which shall be transferred to the director of revenue, upon notification of such nonallowable contribution by the ethics commission, and after the candidate has had ten business days after receipt of notice to return the contribution to the contributor. The candidate and the candidate committee treasurer or deputy treasurer owing a surcharge shall be personally liable for the payment of the surcharge or may pay such surcharge only from campaign funds existing on the date of the receipt of notice. Such surcharge shall constitute a debt to the state enforceable under, but not limited to, the provisions of chapter 143, RSMo.]

Approved July 10, 2008

SB 1039 [HCS SCS SB 1039]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires Christian County, upon voter approval of a county sales tax for central dispatching of emergency services, to appoint a board to administer the funds and oversee emergency services

AN ACT to repeal sections 190.094 and 190.335, RSMo, and to enact in lieu thereof two new sections relating to emergency services.

SECTION

- A. Enacting clause.
- 190.094. Minimum ambulance staffing — volunteer defined.
- 190.335. Central dispatch for emergency services, alternative funding by county sales tax, procedure, ballot form, rate of tax — collection, limitations — adoption of alternate tax, telephone tax to expire, when — board appointment and election, qualification, terms — continuation of board in Greene County — board appointment in Christian County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 190.094 and 190.335, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 190.094 and 190.335, to read as follows:

190.094. MINIMUM AMBULANCE STAFFING — VOLUNTEER DEFINED. — [In any county of the second classification containing part of a city which is located in four counties and any county bordering said county on the east and south and in any county of the third classification with a population of at least eight thousand four hundred but less than eight thousand five hundred inhabitants containing part of a lake of nine hundred fifty-eight miles of shoreline but less than one thousand miles of shoreline each ambulance,] **1. Any ambulance licensed in this state, when [in use] used as an ambulance and staffed with volunteer staff, shall be staffed with a minimum of one emergency medical technician and one other crew member [as set forth in rules adopted by the department] who may be a licensed emergency medical technician, registered nurse, physician, or someone who has a first responder certification.**

2. When transporting a patient, at least one licensed emergency medical technician, registered nurse, or physician shall be in attendance with the patient in the patient compartment at all times.

3. For purposes of this section, "volunteer" shall mean an individual who performs hours of service without promise, expectation or receipt of compensation for services rendered. Compensation such as a nominal stipend per call to compensate for fuel, uniforms, and training shall not nullify the volunteer status.

190.335. CENTRAL DISPATCH FOR EMERGENCY SERVICES, ALTERNATIVE FUNDING BY COUNTY SALES TAX, PROCEDURE, BALLOT FORM, RATE OF TAX — COLLECTION, LIMITATIONS — ADOPTION OF ALTERNATE TAX, TELEPHONE TAX TO EXPIRE, WHEN — BOARD APPOINTMENT AND ELECTION, QUALIFICATION, TERMS — CONTINUATION OF BOARD IN GREENE COUNTY — BOARD APPOINTMENT IN CHRISTIAN COUNTY. — **1.** In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase

and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) impose a county sales tax of (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the governing body shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the

general public. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the first classification with more than two hundred forty thousand three hundred but fewer than two hundred forty thousand four hundred inhabitants, any emergency telephone service 911 board appointed by the county under section 190.309 which is in existence on the date the voters approve a sales tax under this section shall continue to exist and shall have the powers set forth under section 190.339.

12. (1) Notwithstanding the provisions of subsections 8 to 10 of this section to the contrary, in any county of the second classification with more than fifty-four thousand two hundred but fewer than fifty-four thousand three hundred inhabitants that has approved a sales tax under this section, the county commission shall appoint the members of the board to administer the funds and oversee the provision of emergency services in the county.

(2) The board shall consist of seven members appointed without regard to political affiliation. Each member shall be one of the following:

- (a) The head of any of the county's fire protection districts, or a designee;**
- (b) The head of any of the county's ambulance districts, or a designee;**
- (c) The county sheriff, or a designee;**
- (d) The head of any of the police departments in the county, or a designee; and**
- (e) The head of any of the county's emergency management organizations, or a designee.**

(3) Upon the appointment of the board under this subsection, the board shall have the power provided in section 190.339 and shall exercise all powers and duties exercised by the county commission under this chapter, and the commission shall relinquish all powers and duties relating to the provision of emergency services under this chapter to the board.

Approved June 25, 2008

SB 1040 [SCS SB 1040]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control

AN ACT to repeal section 644.570, as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, and section 644.570, as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 160 & 82, ninetieth general assembly, first regular session, and to enact in lieu thereof one new section relating to storm water control assistance, with a contingent effective date.

SECTION

- A. Enacting clause.
- 644.570. Commissioners may borrow additional \$20,000,000 for grants and loans to storm water control plans, how allocated — grants and loans disbursed directly to certain districts — fund created for repayment of loans.
- 644.570. Commissioners may borrow additional \$20,000,000 for grants and loans to storm water control plans, how allocated — grants and loans disbursed directly to certain districts — fund created for repayment of loans.
- B. Contingent effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 644.570, as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, and section 644.570, as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 160 & 82, ninetieth general assembly, first regular session, are repealed and one new section enacted in lieu thereof, to be known as section 644.570, to read as follows:

644.570. COMMISSIONERS MAY BORROW ADDITIONAL \$20,000,000 FOR GRANTS AND LOANS TO STORM WATER CONTROL PLANS, HOW ALLOCATED — GRANTS AND LOANS DISBURSED DIRECTLY TO CERTAIN DISTRICTS — FUND CREATED FOR REPAYMENT OF LOANS. — 1. The board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars for the purposes of financing and constructing storm water control plans, studies and projects as set out in this chapter. The department shall allocate these funds through grants [and] **or** loans to municipalities, **public** sewer districts, sewer districts established pursuant to article VI, section 30(a) of the Missouri Constitution, **public** water districts, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification.

2. [Of the funds allocated in subsection 1 of this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans. Grant amounts so awarded shall be] **Grants awarded under this section shall be no more than** fifty percent of the cost of the plan, study or project.

3. Grants [and] **or** loans [awarded pursuant to] **allocated under** this section shall be [disbursed] **initially offered** to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the population of the recipient county or city bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census.

4. Grants [and] **or** loans [awarded pursuant to] **offered to a city or county under subsection 3 of this section** shall be [disbursed directly] **further allocated and initially offered** to eligible recipients in any city with a population of at least twenty-five thousand inhabitants located in a county of the first classification in an amount equal to the percentage ratio that the recipient's population bears to the total population of the county.

5. **After the initial offer of grants or loans has been made to eligible recipients under subsections 3 and 4 of this section, any remaining funds may be reallocated to recipients of the initial offer who have eligible projects for such funds until no such funds remain. The reallocation of funds shall be made to eligible recipients with remaining eligible projects in an amount equal to the percentage ratio that the population of the eligible recipient bears to the total population of all other eligible recipients with remaining eligible projects under this subsection.**

6. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.

7. Repayments of storm water loans and any interest payments on such loans shall be deposited in the storm water loan revolving fund, which is hereby created. The fund shall be used for the purposes of financing and constructing storm water control plans, studies, and projects. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[644.570. COMMISSIONERS MAY BORROW ADDITIONAL \$20,000,000 FOR GRANTS AND LOANS TO STORM WATER CONTROL PLANS, HOW ALLOCATED — GRANTS AND LOANS DISBURSED DIRECTLY TO CERTAIN DISTRICTS — FUND CREATED FOR REPAYMENT OF LOANS. — 1. The board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars for the purposes of financing and constructing storm water control plans, studies and projects as set out in this chapter. The department shall allocate these funds through grants and loans to municipalities, sewer districts, sewer districts established pursuant to article VI, section 30(a) of the Missouri Constitution, water districts, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification.

2. Of the funds allocated in subsection 1 of this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans. Grant amounts so awarded shall be fifty percent of the cost of the plan, study or project.

3. Grants and loans awarded pursuant to this section shall be disbursed to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the recipient's population bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census.

4. Grants and loans awarded pursuant to this section shall be disbursed directly to eligible recipients in any city with a population of at least twenty-five thousand inhabitants located in a county of the first classification in an amount equal to the percentage ratio that the recipient's population bears to the total population of the county.

5. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.]

SECTION B. CONTINGENT EFFECTIVE DATE. — This act shall become effective only upon approval by the voters of a constitutional amendment submitted to them by the 94th general assembly, amending article III, section 37(h), regarding financing and constructing storm water control plans, studies, and projects.

Approved July 2, 2008

SB 1044 [SCS SB 1044]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding minimum ambulance staffing for ambulances staffed with volunteers

AN ACT to repeal section 190.094, RSMo, and to enact in lieu thereof one new section relating to ambulance staffing.

SECTION

A. Enacting clause.

190.094. Minimum ambulance staffing — volunteer defined.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 190.094, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 190.094, to read as follows:

190.094. MINIMUM AMBULANCE STAFFING — VOLUNTEER DEFINED. — [In any county of the second classification containing part of a city which is located in four counties and any county bordering said county on the east and south and in any county of the third classification with a population of at least eight thousand four hundred but less than eight thousand five hundred inhabitants containing part of a lake of nine hundred fifty-eight miles of shoreline but less than one thousand miles of shoreline each ambulance,] **1. Any ambulance licensed in this state, when [in use] used as an ambulance and staffed with volunteer staff, shall be staffed with a minimum of one emergency medical technician and one other crew member [as set forth in rules adopted by the department] who may be a licensed emergency medical technician, registered nurse, physician, or someone who has a first responder certification.**

2. When transporting a patient, at least one licensed emergency medical technician, registered nurse, or physician shall be in attendance with the patient in the patient compartment at all times.

3. For purposes of this section, "volunteer" shall mean an individual who performs hours of service without promise, expectation or receipt of compensation for services rendered. Compensation such as a nominal stipend per call to compensate for fuel, uniforms, and training shall not nullify the volunteer status.

Approved June 19, 2008

SB 1066 [SB 1066]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to elementary and secondary education

AN ACT to repeal sections 160.254, 160.530, and 168.021, RSMo, and to enact in lieu thereof four new sections relating solely to teacher certification.

SECTION

A. Enacting clause.

160.254. General assembly joint committee on education created — appointment — meetings — chairman — quorum — duties — expenses.

160.530. Eligibility for state aid, allocation of funds to professional development committee — statewide areas of critical need, funds — success leads to success grant program created, purpose — listing of expenditures.

168.021. Issuance of teachers' licenses — effect of certification in another state and subsequent employment in this state.

1. Power to audit school districts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.254, 160.530, and 168.021, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 160.254, 160.530, 168.021, and 1, to read as follows:

160.254. GENERAL ASSEMBLY JOINT COMMITTEE ON EDUCATION CREATED — APPOINTMENT—MEETINGS—CHAIRMAN—QUORUM—DUTIES—EXPENSES. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Education", which shall be composed of seven members of the senate and seven members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house.

2. The committee shall meet at least twice a year. In the event of three consecutive absences on the part of any member, such member may be removed from the committee.

3. The committee shall select either a chairman or cochairmen, one of whom shall be a member of the senate and one a member of the house. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairman or chairmen designate.

4. The committee shall:

(1) Review and monitor the progress of education in the state's public schools and institutions of higher education;

(2) Receive reports from the commissioner of education concerning the public schools and from the commissioner of higher education concerning institutions of higher education;

(3) Conduct a study and analysis of the public school system;

(4) Make recommendations to the general assembly for legislative action;

(5) Conduct an in-depth study concerning all issues relating to the equity and adequacy of the distribution of state school aid, teachers' salaries, funding for school buildings, and overall funding levels for schools and any other education funding-related issues the committee deems relevant;

(6) Monitor the establishment of performance measures as required by section 173.1006, RSMo, and report on their establishment to the governor and the general assembly;

(7) Conduct studies and analysis regarding:

(a) The higher education system, including financing public higher education and the provision of financial aid for higher education; and

(b) The feasibility of including students enrolled in proprietary schools, as that term is defined in section 173.600, RSMo, in all state-based financial aid programs;

(8) Annually review the collection of information under section 173.093, RSMo, to facilitate a more accurate comparison of the actual costs at public and private higher education institutions;

(9) Within three years of August 28, 2007, review a new model for the funding of public higher education institutions upon submission of such model by the coordinating board for higher education;

(10) Within three years of August 28, 2007, review the impact of the higher education student funding act established in sections 173.1000 to 173.1006;

(11) Beginning August 28, 2008, upon review, approve or deny any expenditures made by the commissioner of education pursuant to section 160.530, as provided in subsection 5 of section 160.530.

5. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of elementary and secondary education, the department of higher education, the coordinating board for higher education, the state tax commission, the department of economic development, all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons.

6. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

160.530. ELIGIBILITY FOR STATE AID, ALLOCATION OF FUNDS TO PROFESSIONAL DEVELOPMENT COMMITTEE — STATEWIDE AREAS OF CRITICAL NEED, FUNDS — SUCCESS LEADS TO SUCCESS GRANT PROGRAM CREATED, PURPOSE — LISTING OF EXPENDITURES. —

1. Beginning with fiscal year 1994 and for all fiscal years thereafter, in order to be eligible for state aid distributed pursuant to section 163.031, RSMo, a school district shall allocate one percent of moneys received pursuant to section 163.031, RSMo, exclusive of categorical add-ons, to the professional development committee of the district as established in subdivision (1) of subsection 4 of section 168.400, RSMo. Of the moneys allocated to the professional development committee in any fiscal year as specified by this subsection, seventy-five percent of such funds shall be spent in the same fiscal year for purposes determined by the professional development committee after consultation with the administrators of the school district and approved by the local board of education as meeting the objectives of a school improvement plan of the district that has been developed by the local board. Moneys expended for staff training pursuant to any provisions of this act shall not be considered in determining the requirements for school districts imposed by this subsection.

2. Beginning with fiscal year 1994 and for all fiscal years thereafter, eighteen million dollars [of the moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons,] shall be distributed by the commissioner of education to address statewide areas of critical need for learning and development, **provided that such disbursements are approved by the joint committee on education as provided in subsection 5 of this section, and** as determined by rule and regulation of the state board of education with the advice of the commission established by section 160.510 and the advisory council provided by subsection 1 of section 168.015, RSMo. The moneys described in this subsection may be distributed by the commissioner of education to colleges, universities, private associations, professional education associations, statewide associations organized for the benefit of members of boards of education, public elementary and secondary schools, and other associations and organizations that provide professional development opportunities for teachers, administrators, family literacy personnel and boards of education for the purpose of addressing statewide areas of critical need, provided that subdivisions (1), (2) and (3) of this subsection shall constitute priority uses for such moneys. "Statewide areas of critical need for learning and development" shall include:

(1) Funding the operation of state management teams in districts with academically deficient schools and providing resources specified by the management team as needed in such districts;

(2) Funding for grants to districts, upon application to the department of elementary and secondary education, for resources identified as necessary by the district, for those districts which are failing to achieve assessment standards;

(3) Funding for family literacy programs;

(4) Ensuring that all children, especially children at risk, children with special needs, and gifted students are successful in school;

(5) Increasing parental involvement in the education of their children;

(6) Providing information which will assist public school administrators and teachers in understanding the process of site-based decision making;

(7) Implementing recommended curriculum frameworks as outlined in section 160.514;

(8) Training in new assessment techniques for students;

(9) Cooperating with law enforcement authorities to expand successful antidrug programs for students;

(10) Strengthening existing curricula of local school districts to stress drug and alcohol prevention;

(11) Implementing and promoting programs to combat gang activity in urban areas of the state;

(12) Establishing family schools, whereby such schools adopt proven models of one-stop state services for children and families;

(13) Expanding adult literacy services; and

(14) Training of members of boards of education in the areas deemed important for the training of effective board members as determined by the state board of education.

3. Beginning with fiscal year 1994 and for all fiscal years thereafter, two million dollars of the moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, RSMo, exclusive of categorical add-ons, shall be distributed in grant awards by the state board of education, by rule and regulation, for the "Success Leads to Success" grant program, which is hereby created. The purpose of the success leads to success grant program shall be to recognize, disseminate and exchange information about the best professional teaching practices and programs in the state that address student needs, and to encourage the staffs of schools with these practices and programs to develop school-to-school networks to share these practices and programs.

4. The department shall include a listing of all expenditures under this section in the annual budget documentation presented to the governor and general assembly.

5. Prior to distributing any funds under subsection 2 of this section, the commissioner of education shall appear before the joint committee on education and present a proposed delineation of the programs to be funded under the provisions of subsection 2 of this section. The joint committee shall review all proposed spending under subsection 2 of this section and shall affirm, by a majority vote of all members serving on the committee, the spending proposal of the commissioner prior to any disbursement of funds under subsection 2 of this section.

6. If any provision of subdivision (11) of subsection 4 of section 160.254 or any provision of subsections 2 or 5 of this section regarding approval of disbursements by the joint committee on education are held to be invalid for any reason, then such decision shall invalidate subsection 2 of this section in its entirety.

168.021. ISSUANCE OF TEACHERS' LICENSES — EFFECT OF CERTIFICATION IN ANOTHER STATE AND SUBSEQUENT EMPLOYMENT IN THIS STATE. — 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board with advice from the advisory council established by section 168.015 to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association such as North Central Association. Such certificate shall be limited to the major area of postgraduate study of the holder, shall be issued only after successful completion of the examination required for graduation pursuant to rules adopted by the state board of education, and shall be restricted to those certificates established pursuant to subdivision (1) of subsection 3 of this section; [or]

(3) By the state board, which shall issue the professional certificate classification in both the general and specialized areas most closely aligned with the current areas of certification approved by the state board, commensurate with the years of teaching experience of the applicant, and based upon the following criteria:

(a) Recommendation of a state-approved baccalaureate-level teacher preparation program;

(b) Successful attainment of the Missouri qualifying score on the exit assessment for teachers or administrators designated by the state board of education. Applicants who have not successfully achieved a qualifying score on the designated examinations will be issued a two-year nonrenewable provisional certificate; and

(c) Upon completion of a background check and possession of a valid teaching certificate in the state from which the applicant's teacher preparation program was completed; **or**

(4) By the state board, under rules and regulations prescribed by it, on the basis of certification by the American Board for Certification of Teacher Excellence (ABCTE) and verification of ability to work with children as demonstrated by sixty contact hours in any one of the following areas as validated by the school principal: sixty contact hours in the classroom, of which at least forty-five must be teaching; sixty contact hours as a substitute teacher, with at least thirty consecutive hours in the same classroom; sixty contact hours of teaching in a private school; or sixty contact hours of teaching as a paraprofessional, for an initial four-year ABCTE certificate of license to teach, except that such certificate shall not be granted for the areas of early childhood education, elementary education, or special education. Upon the completion of the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an applicant shall be eligible to apply for a career continuous professional certificate under subdivision (2) of subsection 3 of this section:

(a) Completion of thirty contact hours of professional development within four years, which may include hours spent in class in an appropriate college curriculum;

(b) Validated completion of two years of the mentoring program of the American Board for Certification of Teacher Excellence or a district mentoring program approved by the state board of education;

(c) Attainment of a successful performance-based teacher evaluation; and

(d) Participate in a beginning teacher assistance program.

2. All valid teaching certificates issued pursuant to law or state board policies and regulations prior to September 1, 1988, shall be exempt from the professional development requirements of this section and shall continue in effect until they expire, are revoked or suspended, as provided by law. When such certificates are required to be renewed, the state board or its designee shall grant to each holder of such a certificate the certificate most nearly equivalent to the one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or continuous professional certificate shall, upon expiration of his or her current certificate, be issued the appropriate level of certificate based upon the classification system established pursuant to subsection 3 of this section.

3. Certificates of license to teach in the public schools of the state shall be based upon minimum requirements prescribed by the state board of education. The state board shall provide for the following levels of professional certification: an initial professional certificate and a career continuous professional certificate.

(1) The initial professional certificate shall be issued upon completion of requirements established by the state board of education and shall be valid based upon verification of actual teaching within a specified time period established by the state board of education. The state board shall require holders of the four-year initial professional certificate to:

(a) Participate in a mentoring program approved and provided by the district for a minimum of two years;

(b) Complete thirty contact hours of professional development, which may include hours spent in class in an appropriate college curriculum; and

(c) Participate in a beginning teacher assistance program;

(2) (a) The career continuous professional certificate shall be issued upon verification of completion of four years of teaching under the initial professional certificate and upon verification of the completion of the requirements articulated in paragraphs (a), (b), and (c) of subdivision (1) of this subsection **or paragraphs (a), (b), (c), and (d) of subdivision (4) of subsection 1 of this section.**

(b) The career continuous professional certificate shall be continuous based upon verification of actual employment in an educational position as provided for in state board guidelines and completion of fifteen contact hours of professional development per year which may include hours spent in class in an appropriate college curriculum. Should the possessor of a valid career continuous professional certificate fail, in any given year, to meet the fifteen-hour professional development requirement, the possessor may, within two years, make up the missing hours. In order to make up for missing hours, the possessor shall first complete the fifteen-hour requirement for the current year and then may count hours in excess of the current year requirement as make-up hours. Should the possessor fail to make up the missing hours within two years, the certificate shall become inactive. In order to reactivate the certificate, the possessor shall complete twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate. The requirements of this paragraph shall be monitored and verified by the local school district which employs the holder of the career continuous professional certificate.

(c) A holder of a career continuous professional certificate shall be exempt from the professional development contact hour requirements of paragraph (b) of this subdivision if such teacher has a local professional development plan in place within such teacher's school district and meets two of the three following criteria:

- a. Has ten years of teaching experience as defined by the state board of education;
- b. Possesses a master's degree; or
- c. Obtains a rigorous national certification as approved by the state board of education.

4. Policies and procedures shall be established by which a teacher who was not retained due to a reduction in force may retain the current level of certification. There shall also be established policies and procedures allowing a teacher who has not been employed in an educational position for three years or more to reactivate his or her last level of certification by completing twenty-four contact hours of professional development which may include hours spent in the classroom in an appropriate college curriculum within the six months prior to or after reactivating his or her certificate.

5. The state board shall, upon an appropriate background check, issue a professional certificate classification in the areas most closely aligned with an applicant's current areas of certification, commensurate with the years of teaching experience of the applicant, to any person who is hired to teach in a public school in this state and who possesses a valid teaching certificate from another state, provided that the certificate holder shall annually complete the state board's requirements for such level of certification, and shall establish policies by which residents of states other than the state of Missouri may be assessed a fee for a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

6. The state board may assess to holders of an initial professional certificate a fee, to be deposited into the excellence in education revolving fund established pursuant to section 160.268, RSMo, for the issuance of the career continuous professional certificate. However, such fee shall not exceed the combined costs of issuance and any criminal background check required as a condition of issuance. **Applicants for the initial ABCTE certificate shall be responsible for any fees associated with the program leading to the issuance of the certificate, but nothing in this section shall prohibit a district from developing a policy that permits fee reimbursement.**

7. Any member of the public school retirement system of Missouri who entered covered employment with ten or more years of educational experience in another state or states and held a certificate issued by another state and subsequently worked in a school district covered by the public school retirement system of Missouri for ten or more years who later became certificated in Missouri shall have that certificate dated back to his or her original date of employment in a Missouri public school.

8. The provisions of subdivision (4) of subsection 1 of this section, as well as any other provision of this section relating to the American Board for Certification of Teacher Excellence, shall terminate on August 28, 2014.

SECTION 1. POWER TO AUDIT SCHOOL DISTRICTS. — Notwithstanding any provision of law to the contrary, the state auditor shall have the power to audit any school district within the state in the same manner as the auditor may audit any agency of the state.

Approved May 1, 2008

SB 1068 [CCS SB 1068]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Pharmacy Rebates Fund for use with the MO HealthNet program

AN ACT to amend chapter 338, RSMo, by adding thereto three new sections relating to pharmacy.

SECTION

A. Enacting clause.

338.410. Program created — panel to be appointed, duties.

338.600. Criteria for audit — appeals process to be established — report to be provided — applicability exceptions.

338.650. Fund established, use of moneys.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 338, RSMo, is amended by adding thereto three new sections, to be known as sections 338.410, 338.600, and 338.650, to read as follows:

338.410. PROGRAM CREATED — PANEL TO BE APPOINTED, DUTIES. — 1. There is hereby created within the department of health and senior services the "Missouri Fibromyalgia Awareness Initiative Program". The primary target population for such program shall be women between twenty and sixty years of age.

2. The department shall appoint and convene the "Missouri Fibromyalgia Panel" to be comprised of individuals who shall act in a voluntary capacity with knowledge and expertise regarding fibromyalgia research, prevention, educational programs, and consumer needs, to guide program development. The panel shall seek and is authorized to accept private, federal, or other public financial support, grants, or other appropriate moneys to support the program. The department shall provide the panel and program necessary administrative services and support.

3. The panel shall have the following duties:

(1) In consultation with the National Fibromyalgia Association, to raise at least fifty thousand dollars through private funding for the purpose of establishing a public information and outreach campaign for issues related to fibromyalgia, including appropriate educational material to promote early diagnosis and treatment, prevention of complications, improvement of quality of life at home and in the workplace, and addressing mental health and disability issues of fibromyalgia patients;

(2) To work with other state and local agencies to promote fibromyalgia education and training programs for physicians and other health professionals; and

(3) To examine the various pharmaceutical treatments available for fibromyalgia patients.

4. This section shall be implemented only to the extent that the panel obtains private funding for the purpose of this section.

338.600. CRITERIA FOR AUDIT — APPEALS PROCESS TO BE ESTABLISHED — REPORT TO BE PROVIDED — APPLICABILITY EXCEPTIONS. — 1. Notwithstanding any other provision of law to the contrary, when an audit of the records of a pharmacy licensed in this state is conducted by a managed care company, insurance company, third-party payor, or any entity that represents such companies or groups, such audit shall be conducted in accordance with the following:

(1) The entity conducting the initial on-site audit shall provide the pharmacy with notice at least one week prior to conducting the initial on-site audit for each audit cycle;

(2) Any audit which involves clinical judgment shall be conducted by or in consultation with a licensed pharmacist;

(3) Any clerical error, recordkeeping error, typographical error, or scrivener's error regarding a required document or record shall not constitute fraud or grounds for recoupment, so long as the prescription was otherwise legally dispensed and the claim was otherwise materially correct; except that, such claims may be otherwise subject to recoupment of overpayments or payment of any discovered underpayment. No claim arising under this subdivision shall be subject to criminal penalties without proof of intent to commit fraud;

(4) A pharmacy may use the records of a hospital, physician, or other authorized practitioner of the healing arts involving drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug. Electronically stored images of prescriptions, electronically created annotations and other related supporting documentation shall be considered valid prescription records. Hard copy and electronic signature logs that indicate the delivery of pharmacy services shall be considered valid proof of receipt of such services by a program enrollee;

(5) A finding of an overpayment or underpayment may be a projection based on the number of patients served and having a similar diagnosis or on the number of similar orders or refills for similar drugs; except that, recoupment of claims shall be based on the actual overpayment or underpayment unless the projection for overpayment or underpayment is part of a settlement as agreed to by the pharmacy;

(6) Each pharmacy shall be audited under the same standards and parameters as other pharmacies audited by the entity;

(7) A pharmacy shall be allowed at least thirty days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit;

(8) The period covered by the audit shall not exceed a two-year period beginning two years prior to the initial date of the on-site portion of the audit unless otherwise provided by contractual agreement or if there has been a previous finding of fraud or as otherwise provided by state or federal law;

(9) An audit shall not be initiated or scheduled during the first three business days of any month due to the high volume of prescriptions filled during such time unless otherwise consented to by the pharmacy;

(10) The preliminary audit report shall be delivered to the pharmacy within one hundred twenty days after conclusion of the audit, with reasonable extensions permitted. A final audit report shall be delivered to the pharmacy within six months of receipt by the pharmacy of the preliminary audit report or final appeal, as provided for in subsection 3 of this section, whichever is later;

(11) Notwithstanding any other provision in this subsection, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating recoupments or penalties for audits, except as otherwise authorized under subdivision (5) of this subsection.

2. Recoupments of any disputed moneys shall only occur after final internal disposition of the audit, including the appeals process set forth in subsection 3 of this section. Should the identified discrepancy for an individual audit exceed twenty five thousand dollars, future payments to the pharmacy in excess of twenty five thousand dollars may be withheld pending finalization of the audit.

3. Each entity conducting an audit shall establish an appeals process, lasting no longer than six months, under which a licensed pharmacy may appeal an unfavorable preliminary audit report to the entity. If, following such appeal, the entity finds that an unfavorable audit report or any portion thereof is unsubstantiated, the entity shall dismiss the audit report or such portion without the necessity of any further proceedings.

4. Each entity conducting an audit shall provide a copy of the final audit report, after completion of any appeal process, to the plan sponsor.

5. This section shall not apply to any investigative audit that involves probable fraud, willful misrepresentation, or abuse.

6. This section shall not apply to any audit conducted as part of any inspection or investigation conducted by any governmental entity or law enforcement agency.

338.650. FUND ESTABLISHED, USE OF MONEYS. — There is hereby established in the state treasury the "Pharmacy Rebates Fund". Any revenues received by the state, either directly or indirectly, from pharmaceutical manufacturer rebates as required by federal law, except where federal law requires rebates to be accounted for otherwise, or state supplemental rebates as defined in state plan amendments shall be deposited into the pharmacy rebates fund and shall be used only in the MO HealthNet pharmacy program or its successor programs authorized under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301 et seq.

Approved July 10, 2008

SB 1073 [SB 1073]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a state and local sales and use tax exemption for defense articles sold to foreign governments

AN ACT to amend chapter 144, RSMo, by adding thereto one new section relating to a sales and use tax exemption for the sale of certain defense articles sold to foreign governments.

SECTION

A. Enacting clause.

144.059. All tangible personal property on U.S. munitions list, exempt from state and local sales and use tax.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 144, RSMo, is amended by adding thereto one new section, to be known as section 144.059, to read as follows:

144.059. ALL TANGIBLE PERSONAL PROPERTY ON U.S. MUNITIONS LIST, EXEMPT FROM STATE AND LOCAL SALES AND USE TAX. — In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.

Approved June 25, 2008

SB 1081 [HCS SCS SB 1081]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding quality assurance and safety in the Division of Mental Retardation and Developmental Disabilities Community Programs

AN ACT to repeal sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 537.037, 630.045, 630.050, 630.140, 630.165, 630.167, 630.170, 630.175, 632.005, 632.440, and 633.005, RSMo, and to enact in lieu thereof twenty-three new sections relating to quality assurance and safety in the division of mental retardation and developmental disabilities community programs, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 210.900. Definitions.
- 210.903. Family care safety registry and access line established, contents.
- 210.906. Registration form, contents — violation, penalty — fees — voluntary registration permitted, when.
- 210.909. Department duties — information included in registry, when — registrant notification.
- 210.915. Departmental collaboration on registry information — rulemaking authority.
- 210.921. Release of registry information, when — limitations of disclosure — immunity from liability, when.
- 210.927. Annual report, when, contents.
- 537.037. Emergency care, no civil liability, exceptions (Good Samaritan law).
- 630.045. Appointment of persons for civil involuntary detention actions.
- 630.050. Rules, promulgation, procedure — public inspection — facility policies.
- 630.140. Records confidential, when — may be disclosed, to whom, how, when — release to be documented — court records confidential, exceptions.
- 630.165. Suspected abuse of patient, report, by whom made, contents — effect of failure to report — penalty.
- 630.167. Investigation of report, when made, by whom — abuse prevention by removal, procedure — reports confidential, privileged, exceptions — immunity of reporter, notification — retaliation prohibited — administrative discharge of employee, appeal procedure.
- 630.170. Disqualification for employment because of conviction — appeal process — criminal record review, procedure — registry maintained, when.
- 630.175. Physical and chemical restraints prohibited, exceptions — security escort devices and certain extraordinary measures not considered physical restraint.
- 632.005. Definitions.
- 632.440. No liability for health care professionals, public officials and certain peace officers.
- 633.005. Definitions.
- 633.300. Group homes and facilities subject to federal and state law — workers subject to training requirements — rulemaking authority.
- 633.303. Termination of workers on disqualification registry.
- 633.306. Comprehensive report required, contents — annual report to general assembly, contents.
- 633.309. No transfer to homes or facilities with noncompliance notices.
- 633.401. Definitions — assessment imposed, formula — rates of payment — fund created, use of moneys — recordkeeping requirements — report — appeal process — rulemaking authority.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 537.037, 630.045, 630.050, 630.140, 630.165, 630.167, 630.170, 630.175, 632.005, 632.440, and 633.005, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 210.900, 210.903, 210.906, 210.909, 210.915, 210.921, 210.927, 537.037, 630.045, 630.050, 630.140, 630.165, 630.167, 630.170, 630.175, 632.005, 632.440 633.005, 633.300, 633.303, 633.306, 633.309, and 633.401, to read as follows:

210.900. DEFINITIONS. — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005, RSMo. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

(3) "Department", the department of health and senior services;

(4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, or any person, corporation, or association who provides in-home services under contract with the division of aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) ["Patrol", the Missouri state highway patrol;

(7)] "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;

(7) **"Mental health provider", any mental retardation facility or group home as defined in section 633.005, RSMo;**

(8) **"Mental health worker", any person employed by a mental health provider to provide personal care services and supports;**

(9) **"Patrol", the Missouri state highway patrol;**

[(8)] (10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;

[(9)] (11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health, the division of aging, the department of health and senior services or the department of elementary and secondary education;

[(10)] (12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

[(11)] (13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

210.903. FAMILY CARE SAFETY REGISTRY AND ACCESS LINE ESTABLISHED, CONTENTS.

— 1. To protect children, the elderly, [and] **the disabled, including the developmentally disabled** individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', **mental health workers'**, and personal-care workers' background and on child-care, elder-care, **mental health**, and personal-care providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause findings of abuse and neglect prior to August 28, 2004, or findings of abuse and neglect by a preponderance of the evidence after August 28, 2004, pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

(3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, the department of mental health's employee disqualification registry;

(5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;

(6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259;

(7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo; and

(8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

210.906. REGISTRATION FORM, CONTENTS — VIOLATION, PENALTY — FEES — VOLUNTARY REGISTRATION PERMITTED, WHEN. — 1. Every child-care worker or elder-care worker hired on or after January 1, 2001, or personal-care worker hired on or after January 1, 2002, **or mental health worker hired on or after January 1, 2009**, shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

(1) Request the valid Social Security number of the applicant;

(2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;

(3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and

(4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and every personal-care worker hired on or after January 1, 2002, **and every mental health worker hired on or after January 1, 2009**, shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care, elder-care, **mental health**, or personal-care worker who fails to submit a completed registration form to the department of health and senior services as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. The costs of the criminal background check may be paid by the individual applicant, or by the provider if the applicant is so employed, or for those applicants receiving public assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325, RSMo.

Any moneys remitted to the patrol for the costs of the criminal background check shall be deposited to the credit of the criminal record system fund as required by section 43.530, RSMo.

4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically registered in the family care safety registry at no additional cost other than the costs required pursuant to sections 210.481 to 210.565.

5. Any person not required to register pursuant to the provisions of sections 210.900 to 210.936 may also be included in the registry if such person voluntarily applies to the department for registration and meets the requirements of this section and section 210.909, including submitting to the background checks in subsection 1 of section 210.909.

6. The provisions of sections 210.900 to 210.936 shall not extend to related child care, related elder care or related personal care.

210.909. DEPARTMENT DUTIES — INFORMATION INCLUDED IN REGISTRY, WHEN — REGISTRANT NOTIFICATION. — 1. Upon submission of a completed registration form by a child-care worker, elder-care worker, **mental health worker**, or personal-care attendant, the department shall:

(1) Determine if a probable cause finding of child abuse or neglect prior to August 28, 2004, or a finding of child abuse or neglect by a preponderance of the evidence after August 28, 2004, involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

(2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any criminal history record for a felony or misdemeanor or any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo; and

(6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo; and

(7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

210.915. DEPARTMENTAL COLLABORATION ON REGISTRY INFORMATION — RULEMAKING AUTHORITY. — The department of corrections, the department of public safety, the department of social services and the department of mental health shall collaborate with the department to compare records on child-care, elder-care, **mental health**, and personal-care workers, and the records of persons with criminal convictions and the background checks pursuant to subdivisions (1) to [(6)] **(8)** of subsection 2 of section 210.903, and to enter into any interagency agreements necessary to facilitate the receipt of such information and the ongoing updating of such information. The department shall promulgate rules and regulations concerning

such updating, including subsequent background reviews as listed in subsection 1 of section 210.909.

210.921. RELEASE OF REGISTRY INFORMATION, WHEN — LIMITATIONS OF DISCLOSURE — IMMUNITY FROM LIABILITY, WHEN. — 1. The department shall not provide any registry information pursuant to this section unless the department obtains the name and address of the person calling, and determines that the inquiry is for employment purposes only. For purposes of sections 210.900 to 210.936, "employment purposes" includes direct employer-employee relationships, prospective employer-employee relationships, and screening and interviewing of persons or facilities by those persons contemplating the placement of an individual in a child-care, elder-care, **mental health**, or personal-care setting. Disclosure of background information concerning a given applicant recorded by the department in the registry shall be limited to:

(1) Confirming whether the individual is listed in the registry; and
(2) Indicating whether the individual has been listed or named in any of the background checks listed in subsection 2 of section 210.903. If such individual has been so listed, the department of health and senior services shall only disclose the name of the background check in which the individual has been identified. With the exception of any agency licensed **or contracted** by the state to provide child care, elder care, **mental health services**, or personal care which shall receive specific information immediately if requested, any specific information related to such background check shall only be disclosed after the department has received a signed request from the person calling, with the person's name, address and reason for requesting the information.

2. Any person requesting registry information shall be informed that the registry information provided pursuant to this section consists only of information relative to the state of Missouri and does not include information from other states or information that may be available from other states.

3. Any person who uses the information obtained from the registry for any purpose other than that specifically provided for in sections 210.900 to 210.936 is guilty of a class B misdemeanor.

4. When any registry information is disclosed pursuant to subdivision (2) of subsection 1 of this section, the department shall notify the registrant of the name and address of the person making the inquiry.

5. The department of health and senior services staff providing information pursuant to sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions; provided, however, any department of health and senior services staff person who releases registry information in bad faith or with ill intent shall not have immunity from any liability, civil or criminal. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from the release of registry information. The department is prohibited from selling the registry or any portion of the registry for any purpose including "employment purposes" as defined in subsection 1 of this section.

210.927. ANNUAL REPORT, WHEN, CONTENTS. — The department of health and senior services shall make an annual report, no later than July first of each year, to the speaker of the house of representatives and the president pro tem of the senate on the operation of the family care safety registry and toll-free telephone service, including data on the number of information requests received from the public, identification of any barriers encountered in administering the provisions of sections 210.900 to 210.936, recommendations for removing or minimizing the barriers so identified, and any recommendations for improving the delivery of information on child-care, elder-care, **mental health**, and personal-care workers to the public.

537.037. EMERGENCY CARE, NO CIVIL LIABILITY, EXCEPTIONS (GOOD SAMARITAN LAW). — 1. Any physician or surgeon, registered professional nurse or licensed practical nurse licensed to practice in this state under the provisions of chapter 334 or 335, RSMo, or licensed to practice under the equivalent laws of any other state and any person licensed as a mobile emergency medical technician under the provisions of chapter 190, RSMo, may:

(1) In good faith render emergency care or assistance, without compensation, at the scene of an emergency or accident, and shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care;

(2) In good faith render emergency care or assistance, without compensation, to any minor involved in an accident, or in competitive sports, or other emergency at the scene of an accident, without first obtaining the consent of the parent or guardian of the minor, and shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering the emergency care.

2. Any other person who has been trained to provide first aid in a standard recognized training program may, without compensation, render emergency care or assistance to the level for which he or she has been trained, at the scene of an emergency or accident, and shall not be liable for civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

3. Any mental health professional, as defined in section 632.005, RSMo, or [substance abuse] **qualified** counselor, as defined in section 631.005, RSMo, or any practicing medical, osteopathic, or chiropractic physician, or certified nurse practitioner, or physicians' assistant may in good faith render suicide prevention interventions at the scene of a threatened suicide and shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such suicide prevention interventions.

4. Any other person [who has been trained to provide suicide prevention interventions in a standard recognized training program] may, without compensation, render suicide prevention interventions [to the level for which such person has been trained] at the scene of a threatened suicide and shall not be liable for civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such suicide prevention interventions.

630.045. APPOINTMENT OF PERSONS FOR CIVIL INVOLUNTARY DETENTION ACTIONS. — The director of the department may [appoint such personnel] **authorize such persons**, including mental health coordinators, as are necessary to carry out the civil involuntary detention requirements of chapter 632, RSMo. [The mental health coordinators shall be subject to the exclusive direction and supervision of the director, or his designee, who shall not be an employee of any mental health facility.]

630.050. RULES, PROMULGATION, PROCEDURE — PUBLIC INSPECTION — FACILITY POLICIES. — 1. The department shall promulgate rules under the provisions of this section and chapter 536, RSMo, as necessary to prescribe policies or standards which affect charging, funding and licensing procedures of residential facilities, day programs and specialized services available to the public **and for reporting and investigating complaints of abuse and neglect**. The rules applicable to each facility, program or service operated, funded or licensed by the department shall be available for public inspection and review at such facility, program or service. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

2. The department shall adopt operating regulations concerning only its internal management which need not be published in the Missouri Register or the code of state

regulations under chapter 536, RSMo, but these regulations shall be available at department facilities for public inspection and review.

3. Under the supervision of the department and its respective divisions, each facility shall adopt policies concerning only its internal management or its procedures for its patients, residents or clients without publishing such policies in the Missouri Register or the code of state regulations under chapter 536, RSMo, but the facility policies shall be available at such facility for public inspection and review.

4. The rules, operating regulations and facility policies shall be compatible with and appropriate to the facility or program mission, population served, size, type of service and other reasonable classifications.

630.140. RECORDS CONFIDENTIAL, WHEN — MAY BE DISCLOSED, TO WHOM, HOW, WHEN — RELEASE TO BE DOCUMENTED — COURT RECORDS CONFIDENTIAL, EXCEPTIONS.

— 1. Information and records compiled, obtained, prepared or maintained by the residential facility, [day] **mental health** program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

- (1) The parent of a minor patient, resident or client;
- (2) The guardian or other person having legal custody of the patient, resident or client;
- (3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;
- (4) An attorney or personal physician as authorized by the patient, resident or client;
- (5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state;

(8) To mental health coordinators, but only to the extent necessary to carry out their duties under chapter 632, RSMo.

3. The facilities or services may disclose information and records under any of the following:

(1) As authorized by the patient, resident or client;

(2) To persons or agencies responsible for providing health care services to such patients, residents or clients **as permitted by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended;**

(3) To the extent necessary for a recipient to make a claim or for a claim to be made on behalf of a recipient for aid or insurance;

(4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or indirectly, any individual patient, resident or client in any report of such research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;

(5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;

(6) To law enforcement officers or public health officers, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement and public health officers shall be obligated to keep such information confidential;

(7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

(8) To the attorney representing petitioners, but only to the extent necessary to carry out their duties under chapter 632, RSMo;

(9) To the department of social services or the department of health and senior services as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents, or clients;

(10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory responsibilities. The county board shall not identify, directly or indirectly, any individual patient, resident or client;

(11) To parents, legal guardians, treatment professionals, law enforcement officers, and other individuals who by having such information could mitigate the likelihood of a suicide. The facility treatment team shall have determined that the consumer's safety is at some level of risk.

4. The facility or program shall document the dates, nature, purposes and recipients of any records disclosed under this section and sections 630.145 and 630.150.

5. The records and files maintained in any court proceeding under chapter 632, RSMo, shall be confidential and available only to the patient, the patient's attorney, guardian, or, in the case of a minor, to a parent or other person having legal custody of the patient, to the petitioner and the petitioner's attorney, and to the Missouri state highway patrol for reporting to the National Instant Criminal Background Check System (NICS). In addition, the court may order the release or use of such records or files only upon good cause shown, and the court may impose such restrictions as the court deems appropriate.

6. Nothing contained in this chapter shall limit the rights of discovery in judicial or administrative procedures as otherwise provided for by statute or rule.

7. The fact of admission of a voluntary or involuntary patient to a mental health facility under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this section.

630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY. — 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer,

pharmacist, physical therapist, facility administrator, nurse's aide [or], orderly **or any other direct care staff** in a residential facility, day program, **group home or mental retardation facility as defined in section 633.005, RSMo**, or specialized service operated, **licensed, certified, or funded [or licensed]** by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051, RSMo, and distributed to the public schools of this state in the manner provided in section 163.031, RSMo. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, or client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS — IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE. — 1. Upon receipt of a report, the department [or its agents, contractors or vendors] or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Except as otherwise provided in this section, reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo. Investigative reports pertaining to abuse and neglect shall remain confidential until a final report is complete, subject to the conditions contained in this section. Final reports of substantiated abuse or neglect issued on or after August 28, 2007, are open and shall be available for release in accordance with chapter 610, RSMo. The names and all other identifying information in such final substantiated reports, including diagnosis and treatment information about the patient, resident, or client who is the subject of such report, shall be confidential and may only be released to the patient, resident, or client who has not been adjudged incapacitated under chapter 475, RSMo, the custodial parent or guardian parent, or other guardian of the patient, resident or client. The names and other descriptive information of the complainant, witnesses, or other persons for whom findings are not made against in the final substantiated report shall be confidential and not deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall remain closed records and shall only be released to the parents or other guardian of the patient, resident, or client who is the subject of such report, patient, resident, or client and the department vendor, provider, agent, or facility where the patient, resident, or client was receiving department services at the time of the unsubstantiated allegations of abuse and neglect, but the names and any other descriptive information of the complainant or any other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not been adjudged incapacitated under chapter 475, RSMo, may be denied or withheld if the director of the department or his or her designee determines that such release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation, or the safety of others and provided that the reasons for such denial or withholding are submitted in writing to the patient, resident or client who has not been adjudged incapacitated under chapter 475, RSMo. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section 36.390, RSMo, or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, and the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations

of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services' officers, and boards shall be obligated to keep such information confidential;

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035, RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee;

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection;

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

- (1) Good cause exists for the untimely commencement of the request for the review;
- (2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and
- (3) There is no other adequate remedy at law.

630.170. DISQUALIFICATION FOR EMPLOYMENT BECAUSE OF CONVICTION — APPEAL PROCESS — CRIMINAL RECORD REVIEW, PROCEDURE — REGISTRY MAINTAINED, WHEN. —

1. A person who is listed on the department of mental health disqualification registry pursuant to this section, who is listed on the department of social services or the department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, or who has been convicted of or pled guilty or nolo contendere to any crime pursuant to section **565.210, 565.212, or 565.214, RSMo, or section 630.155 or 630.160** shall be disqualified from holding any position in any public or private facility or day program operated, funded or licensed by the department or in any mental health facility or mental health program in which people are admitted on a voluntary or involuntary basis or are civilly detained pursuant to chapter 632, RSMo.

2. A person who has been convicted of or pled guilty or nolo contendere to any felony offense against persons as defined in chapter 565, RSMo; any felony sexual offense as defined in chapter 566, RSMo; any felony offense defined in section 568.020, 568.045, 568.050, 568.060, 569.020, 569.025, 569.030, 569.035, 569.040, 569.050, 569.070, or 569.160, RSMo, or of an equivalent felony offense, or who has been convicted of or pled guilty or nolo contendere to any violation of subsection 3 of section 198.070, RSMo, **or has been convicted of or pled guilty or nolo contendere to any offense requiring registration under section 589.400, RSMo,** shall be disqualified from holding any direct-care position in any public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

3. A person who has received a suspended imposition of sentence or a suspended execution of sentence following a plea of guilty to any of the disqualifying crimes listed in subsection 1 or 2 of this section shall remain disqualified.

4. Any person disqualified pursuant to the provisions of subsection 1 or 2 of this section may seek an exception to the disqualification from the director of the department or the director's designee. The request shall be written and may not be made more than once every twelve months. The request may be granted by the director or designee if in the judgment of the director or designee a clear showing has been made by written submission only, that the person will not commit any additional acts for which the person had originally been disqualified for or any other acts that would be harmful to a patient, resident or client of a facility, program or service. The director or designee may grant an exception subject to any conditions deemed appropriate and failure to comply with such terms may result in the person again being disqualified. Decisions by the director or designee pursuant to the provisions of this subsection shall not be subject to appeal. The right to request an exception pursuant to this subsection shall not apply to persons who are disqualified due to being listed on the department of social services or department of health and senior services employee disqualification list pursuant to section 660.315, RSMo, nor to persons disqualified from employment due to any crime pursuant to the provisions of chapter 566, RSMo, or section 565.020, 565.021, 568.020, 568.060, 569.025, or 569.070, RSMo.

5. An applicant for a direct care position in any public or private facility, day program, residential facility, or specialized service operated, funded, or licensed by the department or any mental health facility or mental health program in which people are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, shall:

(1) Sign a consent form as required by section 43.540, RSMo, to provide written consent for a criminal record review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any suspended imposition of sentence, any suspended execution of sentence, or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315, RSMo, or the department of mental health disqualification registry as provided for in this section.

6. Any person who has received a good cause waiver issued by the division of senior services or its predecessor under subsection 9 of section 660.317, RSMo, shall not require an additional exception under this section in order to be employed in a long-term care facility licensed under chapter 198, RSMo.

7. Any public or private residential facility, day program, or specialized service licensed, certified, or funded by the department shall, not later than two working days after hiring any person for a full-time, part-time, or temporary position that will have contact with clients, residents, or patients:

(1) Request a criminal background check as provided in section 43.540, RSMo;

(2) Make an inquiry to the department of social services and department of health and senior services to determine whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo; and

(3) Make an inquiry to the department of mental health to determine whether the person is listed on the disqualification registry as provided in this section.

8. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider hires a person to hold a direct care position knowing that such person has been disqualified pursuant to the provisions of subsection 1 or 2 of this section.

9. The department may maintain a disqualification registry and place on the registry the names of any persons who have been finally determined by the department to be disqualified pursuant to this section, or who have had administrative substantiations made against them for abuse or neglect pursuant to department rule. Such list shall reflect that the person is barred from holding any position in any public or private facility or day program operated, funded or licensed by the department, or any mental health facility or mental health program in which persons are admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo.

630.175. PHYSICAL AND CHEMICAL RESTRAINTS PROHIBITED, EXCEPTIONS — SECURITY ESCORT DEVICES AND CERTAIN EXTRAORDINARY MEASURES NOT CONSIDERED PHYSICAL RESTRAINT. — 1. No person admitted on a voluntary or involuntary basis to any mental health facility or mental health program in which people are civilly detained pursuant to chapter 632, RSMo, and no patient, resident or client of a residential facility or day program operated, funded or licensed by the department shall be subject to physical or chemical restraint, isolation or seclusion unless it is determined by the head of the facility or the attending licensed physician that the chosen intervention is imminently necessary to protect the health and safety of the patient, resident, client or others and that it provides the least restrictive environment.

2. Every use of physical or chemical restraint, isolation or seclusion and the reasons therefor shall be made a part of the clinical record of the patient, resident or client under the signature of the head of the facility or the attending licensed physician.

3. Physical or chemical restraint, isolation or seclusion shall not be considered standard treatment or habilitation and shall cease as soon as the circumstances causing the need for such action have ended.

4. The use of security escort devices, including devices designed to restrict physical movement, which are used to maintain safety and security and to prevent escape during transport outside of a facility shall not be considered physical restraint within the meaning of this section. Individuals who have been civilly detained under sections 632.300 to 632.475, RSMo, may be placed in security escort devices when transported outside of the facility if it is determined by the head of the facility or the attending licensed physician that the use of security escort devices is necessary to protect the health and safety of the patient, resident, client, or other persons or is necessary to prevent escape. Individuals who have been civilly detained under sections 632.480 to 632.513, RSMo, or committed under chapter 552, RSMo, shall be placed in security escort devices when transported outside of the facility unless it is determined by the head of the facility or the attending licensed physician that security escort devices are not necessary to protect the health and safety of the patient, resident, client, or other persons or is not necessary to prevent escape.

5. Extraordinary measures employed by the head of the facility to ensure the safety and security of patients, residents, clients, and other persons during times of natural or manmade disasters shall not be considered restraint, isolation, or seclusion within the meaning of this section.

632.005. DEFINITIONS. — As used in chapter 631, RSMo, and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than mental retardation or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

(2) "Council", the Missouri advisory council for comprehensive psychiatric services;

(3) "Court", the court which has jurisdiction over the respondent or patient;

(4) "Division", the division of comprehensive psychiatric services of the department of mental health;

(5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;

(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334, RSMo, or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150, RSMo;

(9) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information

about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

(10) "Mental health coordinator", a mental health professional [employed by the state of Missouri] who has knowledge of the laws relating to hospital admissions and civil commitment and who is [appointed] **authorized** by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

(11) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or mental retardation facility shall be a mental health facility within the meaning of this chapter;

(12) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse or psychiatric social worker;

(13) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the department. No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

(14) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

(15) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

(16) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335, RSMo, and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

(17) "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

(18) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(19) "Psychologist", a person licensed to practice psychology under chapter 337, RSMo, with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

(20) "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(21) "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

(22) "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

632.440. NO LIABILITY FOR HEALTH CARE PROFESSIONALS, PUBLIC OFFICIALS AND CERTAIN PEACE OFFICERS. — No officer of a public or private agency, mental health facility or mental health program; no head, attending staff or consultant of any such agency, facility or mental health program; no mental health coordinator, registered professional nurse, licensed physician, mental health professional nor any other public official performing functions necessary for the administration of this chapter; no peace officer responsible for detaining a person pursuant to this chapter; and no peace officer responsible for detaining or transporting, or both, any person upon the request of any mental health coordinator pursuant to section 632.300 or 632.305 or acting pursuant to the request of a guardian who is acting pursuant to chapter 475, RSMo, or upon the request of the head of any supervisory mental health program who is acting pursuant to section 632.337, regardless of whether such peace officer is outside the jurisdiction for which he serves as a peace officer during the course of such detention or transportation, or both, shall be civilly liable for **investigating**, detaining, transporting, conditionally releasing or discharging a person pursuant to this chapter or chapter 475, RSMo, at or before the end of the period for which the person was admitted or detained for evaluation or treatment so long as such duties were performed in good faith and without gross negligence.

633.005. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive evaluation", a study, including a sequence of observations and examinations, of an individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons with special training and experience in the diagnosis and habilitation of the mentally retarded and developmentally disabled;

(2) "Division", the division of mental retardation and developmental disabilities of the department of mental health;

(3) "Division director", the director of the division of mental retardation and developmental disabilities of the department of mental health, or his designee;

(4) **"Group home", a residential facility serving nine or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include a family living arrangement or individualized supported living;**

(5) "Mental retardation facility", a private or department facility, other than a regional center, which admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630, RSMo. Such terms shall include, but shall not be limited to, habilitation centers and private or public residential facilities for persons who are developmentally disabled;

[(5)] (6) "Regional center", an entity so designated by the department to provide, directly or indirectly, for comprehensive mental retardation and developmental disability services under this chapter in a particular region;

[(6)] (7) "Respite care", temporary and short-term residential care, sustenance and supervision of a mentally retarded or developmentally disabled person who otherwise resides in a family home;

[(7)] (8) "State advisory council", the Missouri advisory council on mental retardation and developmental disabilities as created in section 633.020.

633.300. GROUP HOMES AND FACILITIES SUBJECT TO FEDERAL AND STATE LAW — WORKERS SUBJECT TO TRAINING REQUIREMENTS — RULEMAKING AUTHORITY. — 1. All group homes and mental retardation facilities as defined in section 633.005, shall be subject to all applicable federal and state laws, regulations, and monitoring, including but not limited to sections 630.705 to 630.805, RSMo.

2. All mental health workers, as defined in subdivision (8) of section 210.900, RSMo, shall be subject to the same training requirements established for state mental health workers with comparable positions in public group homes and mental health facilities. Such required training shall be paid for by the employer.

3. Group homes and mental retardation facilities shall be subject to the same medical errors reporting requirements of other mental health facilities and group homes.

4. The department shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

633.303. TERMINATION OF WORKERS ON DISQUALIFICATION REGISTRY. — Any employee, including supervisory personnel, of a group home or mental retardation facility who has been placed on the disqualification registry pursuant to section 630.170, RSMo, shall be terminated. Such requirements shall be specified in contracts between the department and providers pursuant to this section.

633.306. COMPREHENSIVE REPORT REQUIRED, CONTENTS — ANNUAL REPORT TO GENERAL ASSEMBLY, CONTENTS. — 1. Beginning January 1, 2009, all mental health facilities shall, on an annual basis, submit a comprehensive report to the department on any staff and personnel turnover at the facility. Such report shall include the number, job description, salary, and duration of employment regarding such staff and personnel turnover. Such reports shall be submitted no later than thirty days after the end of each calendar year.

2. Beginning January 1, 2009, the department shall collect the information submitted under subsection 1 of this section and submit an annual report to the general assembly on or before March fifteenth of each year regarding the staff and personnel turnover at mental health facilities. Such report shall include information that is specific to each facility, as well as information inclusive of all such facilities.

633.309. NO TRANSFER TO HOMES OR FACILITIES WITH NONCOMPLIANCE NOTICES. — The department of mental health shall not transfer any person to any group home or mental retardation facility that has received a notice of noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and 630.750, RSMo.

633.401. DEFINITIONS — ASSESSMENT IMPOSED, FORMULA — RATES OF PAYMENT — FUND CREATED, USE OF MONEYS — RECORDKEEPING REQUIREMENTS — REPORT — APPEAL PROCES — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the mentally retarded", a private or department of mental health facility which admits persons who are mentally retarded or developmentally disabled for residential habilitation and other services pursuant to chapter 630, RSMo. Such term shall include habilitation centers and private or public intermediate care facilities for the mentally retarded that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) "Net operating revenues from providing services of intermediate care facilities for the mentally retarded" shall include, without limitation, all monies received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from non-service related fund raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the mentally retarded" has the same meaning as the term used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the mentally retarded shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the mentally retarded or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the mentally retarded, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the mentally retarded on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility Mentally Retarded Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the intermediate care facility mentally retarded reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the mentally retarded shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care

facilities for the mentally retarded shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the mentally retarded shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the mentally retarded. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the assessment for each year shall be due for all providers of services of intermediate care facilities for the mentally retarded upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section, within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the mentally retarded provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055, RSMo.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the mentally retarded granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

16. The provisions of this section shall expire on June 30, 2009.

SECTION B. EMERGENCY CLAUSE. — Because of the need to preserve state revenue and to promote safety and quality in mental health community programs, the enactment of section 633.401 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of

the constitution, and the enactment of section 633.401 of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2008

SB 1105 [SCS SB 1105]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates an income tax check-off for contributions to the breast cancer awareness trust fund

AN ACT to amend chapter 143, RSMo, by adding thereto one new section relating to an income tax check-off for contributions to the Breast Cancer Awareness Trust Fund.

SECTION

A. Enacting clause.

143.1009. Breast cancer awareness trust fund, designation of tax refund permitted — director's duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 143, RSMo, is amended by adding thereto one new section, to be known as section 143.1009, to read as follows:

143.1009. BREAST CANCER AWARENESS TRUST FUND, DESIGNATION OF TAX REFUND PERMITTED — DIRECTOR'S DUTIES. — **1.** In each taxable year beginning on or after January 1, 2008, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the "Breast Cancer Awareness Trust Fund", hereinafter referred to as the "trust fund". If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the trust fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the breast cancer awareness trust fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the trust fund as provided in subsections 2 and 3 of this section. All moneys credited to the trust fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the trust fund.

3. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the trust fund.

4. A contribution designated under this section shall only be deposited in the trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. All moneys transferred to the trust fund shall be distributed by the director of revenue at times the director deems appropriate to the Friends of the Missouri Women's

Council. Such funds shall be used solely for the purpose of providing breast cancer services. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

6. There is hereby created in the state treasury the "Breast Cancer Awareness Trust Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2008, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved June 4, 2008

SB 1131 [HCS SCS SB 1131]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Excludes tax revenues, derived from certain transportation sales taxes imposed by the City of Kansas City, from tax increment finance and MODESA economic activity taxes used to pay redevelopment costs

AN ACT to repeal sections 94.577, 94.600, and 94.605, RSMo, and to enact in lieu thereof three new sections relating to transportation sales taxes.

SECTION

A. Enacting clause.

94.577. Sales tax imposed in certain cities — rates of tax — election procedure — revenue to be used for capital improvements — revenue bonds, retirement — special trust fund — limitation on use of revenue by city of St. Louis — refunds authorized.

94.600. Definitions.

94.605. Tax, how imposed — rate of tax — boundary change, procedure — effective date for tax or its abolition — city or county clerk's duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 94.577, 94.600, and 94.605, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 94.577, 94.600, and 94.605, to read as follows:

94.577. SALES TAX IMPOSED IN CERTAIN CITIES — RATES OF TAX — ELECTION PROCEDURE — REVENUE TO BE USED FOR CAPITAL IMPROVEMENTS — REVENUE BONDS, RETIREMENT — SPECIAL TRUST FUND — LIMITATION ON USE OF REVENUE BY CITY OF ST. LOUIS — REFUNDS AUTHORIZED. — 1. The governing body of any municipality except those located in whole or in part within any first class county having a charter form of government and

not containing any part of a city with a population of four hundred thousand or more and adjacent to a city not within a county for that part of the municipality located within such first class county is hereby authorized to impose, by ordinance or order, a one-eighth, one-fourth, three-eighths, or one-half of one percent sales tax on all retail sales made in such municipality which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for the purpose of funding capital improvements, including the operation and maintenance of capital improvements, which may be funded by issuing bonds which will be retired by the revenues received from the sales tax authorized by this section or the retirement of debt under previously authorized bonded indebtedness. A municipality located in a charter county may impose a sales tax on all retail sales for capital improvements as provided in section 94.890. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law; but no ordinance imposing a sales tax under the provisions of this section shall be effective unless the governing body of the municipality submits to the voters of the municipality, at a municipal or state general, primary or special election, a proposal to authorize the governing body of the municipality to impose such tax and, if such tax is to be used to retire bonds authorized under this section, to authorize such bonds and their retirement by such tax, or to authorize the retirement of debt under previously authorized bonded indebtedness.

2. The ballot of submission shall contain, but need not be limited to:

(1) If the proposal submitted involves only authorization to impose the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) impose a sales tax of (insert amount) for the purpose of funding capital improvements which may include the retirement of debt under previously authorized bonded indebtedness?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No"; or

(2) If the proposal submitted involves authorization to issue bonds and repay such bonds with revenues from the tax authorized by this section, the following language:

Shall the municipality of (municipality's name) issue bonds in the amount of (insert amount) to fund capital improvements and impose a sales tax of (insert amount) to repay bonds?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in box opposite "No". If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, including when the proposal authorizes the reduction of debt under previously authorized bonded indebtedness under subdivision (1) of this subsection, then the ordinance or order and any amendments thereto shall be in effect, except that any proposal submitted under subdivision (2) of this subsection to issue bonds and impose a sales tax to retire such bonds must be approved by the constitutionally required percentage of the voters voting thereon to become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality shall have no power to issue any bonds or impose the sales tax authorized in this section unless and until the governing body of the municipality shall again have submitted another proposal to authorize the governing body of the municipality to issue any bonds or impose the sales tax authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section, except that any municipality with a population of greater than four hundred thousand and located within more than one county may submit a proposal pursuant

to this section to the voters sooner than twelve months from the date of the last proposal submitted pursuant to this section if submitted to the voters on or before November 6, 2001.

3. All revenue received by a municipality from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements, including the operation and maintenance of capital improvements, for so long as the tax shall remain in effect. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with revenues raised by the tax authorized by this section. Any funds in the special trust fund required by this subsection which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have not been imposed to retire bonds issued pursuant to this section.

4. All revenue received by a municipality which issues bonds under this section and imposes the tax authorized by this section to retire such bonds shall be deposited in a special trust fund and shall be used solely to retire such bonds, except to the extent that such funds are required for the operation and maintenance of capital improvements. Once all of such bonds have been retired, all funds remaining in the special trust fund required by this subsection shall be used solely for the maintenance of the capital improvements made with the revenue received as a result of the issuance of such bonds. Any funds in the special trust fund required by this subsection which are not needed to meet current obligations under the bonds issued under this section may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal funds. The provisions of this subsection shall apply only to taxes authorized by this section which have been imposed to retire bonds issued under this section.

5. After the effective date of any tax imposed under the provisions of this section, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax in the same manner as provided in sections 94.500 to [94.570] **94.550**, and the director of revenue shall collect in addition to the sales tax for the state of Missouri the additional tax authorized under the authority of this section. The tax imposed pursuant to this section and the tax imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. No tax imposed pursuant to this section for the purpose of retiring bonds issued under this section may be terminated until all of such bonds have been retired.

7. In any city not within a county, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

8. Any tax imposed under this section in any home rule city with more than four hundred thousand inhabitants and located in more than one county solely for public transit purposes shall not be considered "economic activity taxes" as such term is defined under sections 99.805 and 99.918, RSMo, and tax revenues derived from such tax shall not be subject to allocation under the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957, RSMo.

9. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such municipalities. If any municipality abolishes the tax, the municipality shall notify the

director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such municipality, the director of revenue shall remit the balance in the account to the municipality and close the account of that municipality. The director of revenue shall notify each municipality of each instance of any amount refunded or any check redeemed from receipts due the municipality.

94.600. DEFINITIONS. — The following words, as used in sections 94.600 to 94.655, mean:

- (1) "City", any city not within a county, any city of over four hundred thousand inhabitants wholly or partially within a first class county, and any first class county operating under a charter form of government and having a population of over nine hundred thousand inhabitants;
- (2) "City transit authority", a commission or board created by city charter provision or by ordinance of a city, and which operates a public mass transportation system;
- (3) "City utilities board", a board or commission created by city charter provision or by ordinance of a city, which controls and operates city-owned utilities including a public mass transportation system;
- (4) "Director of revenue", the director of revenue of the state of Missouri;
- (5) "Interstate transportation authority", any political subdivision created by compact between this state and another state, which is a body corporate and politic and a political subdivision of both contracting states, and which operates a public mass transportation system;
- (6) "Interstate transportation district", that geographical area set forth and defined in the particular compact between this state and another state;
- (7) "Person", an individual, corporation, partnership, or other entity;
- (8) "Public mass transportation system", a transportation system or systems owned and operated by an interstate transportation authority, a municipality, a city transit authority, or a city utilities board, employing motor buses, rails or any other means of conveyance, by whatsoever type or power, operated for public use in the conveyance of persons, mainly providing local transportation service within an interstate transportation district or municipality;
- (9) "Transportation purposes", financial support of a public mass transportation system **including, but not limited to, the development and operation of bus, para-transit, and fixed-rail and light-rail transit systems**; the construction, reconstruction, repair and maintenance of streets, roads and bridges within a municipality; the construction, reconstruction, repair and maintenance of airports owned and operated by municipalities; the acquisition of lands and rights-of-way for streets, roads, bridges and airports; and planning and feasibility studies for streets, roads, bridges, and airports. "Bridges" shall include bridges connecting a municipality with another municipality either within or without the state, with an unincorporated area of the state, or with another state or an unincorporated area thereof. Notwithstanding the other provisions of this subdivision, in first class counties operating under a charter form of government and having a population of over nine hundred thousand inhabitants, transportation purposes shall mean financial support of a public mass transportation system; the construction, reconstruction, repair and maintenance of streets, roads and bridges which are a part of a county-urban road system established by the governing body of the county; the acquisition of lands and rights-of-way for streets, roads and bridges for a county-urban road system established by the governing body of the county; planning and feasibility studies for streets, roads and bridges for a county-urban road system; and rapid transit purposes; and bridges shall include those county-urban road system bridges connecting a municipality with another municipality either within or without the state, with an unincorporated area of the state, or with another state or an unincorporated area thereof.

94.605. TAX, HOW IMPOSED — RATE OF TAX — BOUNDARY CHANGE, PROCEDURE — EFFECTIVE DATE FOR TAX OR ITS ABOLITION — CITY OR COUNTY CLERK'S DUTIES. — 1. Any city as defined in section 94.600 may by a majority vote of its governing body impose a sales tax for transportation purposes enumerated in sections 94.600 to 94.655.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo.

3. **With respect to any tax increment financing plan originally approved by ordinance of the city council after March 31, 2009, in any home rule city with more than four hundred thousand inhabitants and located in more than one county, any three-eighths of one cent sales tax imposed under sections 94.600 to 94.655, RSMo, shall not be considered "economic activity taxes" as such term is defined under sections 99.805 and 99.918, RSMo, and tax revenues derived from such taxes shall not be subject to allocation under the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957, RSMo. Any one-eighth of one cent sales tax imposed in such city under sections 94.600 to 94.655, RSMo, for constructing and operating a light-rail transit system shall not be considered "economic activity taxes" as such term is defined under sections 99.805 and 99.918, RSMo, and tax revenues derived from such tax shall not be subject to allocation under the provisions of subsection 3 of section 99.845, RSMo, or subsection 4 of section 99.957, RSMo.**

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city or county clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 94.600 to 94.655 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

Approved July 10, 2008

SB 1139 [SCS SB 1139]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the Uniform Anatomical Gift Act

AN ACT to repeal sections 58.451, 58.720, 194.119, 194.210, 194.220, 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, 194.304, and 302.171, RSMo, and to enact in lieu thereof twenty-nine new sections relating to anatomical gifts, with penalty provisions.

SECTION

- A. Enacting clause.
- 58.451. Death to be reported and investigated by coroner, certain counties, when — place of death, two counties involved, how determined — efforts to accommodate organ donation.
- 58.720. Medical examiner, certain counties, to investigate, when — death certificate issued, when — place of death — two counties involved, how determined — efforts to accommodate organ donation.
- 58.775. Applicability of definitions.
- 58.780. Cooperation with procurement organization required — postmortem examination requirements — removal of body parts permitted, when.

- 58.785. Release of decedent information to procurement organizations, when — medicolegal examination permitted — recovery of body parts, requirements.
- 194.119. Right of sepulcher, the right to choose and control final disposition of a dead human body.
- 194.210. Definitions.
- 194.215. Applicability of law.
- 194.220. Registry to be established — gift may be made by whom.
- 194.225. Procedure for making a gift — donor cards, requirements — gift made by will, effect of.
- 194.230. Amendment or revocation, procedure.
- 194.235. Refusal to make a gift, evidenced how, requirements.
- 194.240. Person other than donor barred from making, amending, or revoking donor's gift — revocation not a bar to making a gift — parent may revoke or amend a gift of a child.
- 194.245. Gift for transplantation, therapy, research, or education, priority list for persons making.
- 194.250. Document of gift by oral communication, procedure.
- 194.255. Persons eligible to receive gift in the document of gift — gifts not naming persons, effect of — refusal of gift required when.
- 194.260. Reasonable search to identify donors — immunity from liability, when.
- 194.263. Delivery of document of gift not required — examination and copying of document permitted, when.
- 194.265. Referral to procurement organization, diligent search of donor registry required — reasonable examination of body parts permitted, when — search for minor's parents required, when — attending physician shall not procure, when.
- 194.270. Hospitals to enter into agreements with procurement organizations.
- 194.275. Purchase or sale of body parts for valuable consideration prohibited — penalty — definition.
- 194.280. Falsification of documents, penalty.
- 194.285. Immunity from liability, when.
- 194.290. Declarations and advance health care directives — definitions — gift in conflict with, donor or physician to resolve.
- 194.292. Requirements for valid execution of a document of gift — presumption of validity, when — requirements for out-of-state execution of documents.
- 194.293. Uniformity of law a consideration in construing statutory provisions.
- 194.294. Effect of law on certain federal acts.
- 194.304. Transfer of donor registry information, department of revenue to cooperate — registry requirements.
- 302.171. Application for license — form — content — educational materials to be provided to applicants under twenty-one — voluntary contribution to organ donation program — information to be included in registry — voluntary contribution to blindness assistance — exemption from requirement to provide proof of lawful presence — one-year renewal, requirements.
- 194.233. Anatomical gifts — hospital to make request, to whom, when — verification in patient's record — hospital not liable for cost of retrieval.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 58.451, 58.720, 194.119, 194.210, 194.220, 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, 194.304, and 302.171, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 58.451, 58.720, 58.775, 58.780, 58.785, 194.119, 194.210, 194.215, 194.220, 194.225, 194.230, 194.235, 194.240, 194.245, 194.250, 194.255, 194.260, 194.263, 194.265, 194.270, 194.275, 194.280, 194.285, 194.290, 194.292, 194.293, 194.294, 194.304, and 302.171, to read as follows:

58.451. DEATH TO BE REPORTED AND INVESTIGATED BY CORONER, CERTAIN COUNTIES, WHEN — PLACE OF DEATH, TWO COUNTIES INVOLVED, HOW DETERMINED — EFFORTS TO ACCOMMODATE ORGAN DONATION. — 1. When any person, in any county in which a coroner is required by section 58.010, dies and there is reasonable ground to believe that such person died as a result of:

- (1) Violence by homicide, suicide, or accident;
- (2) Criminal abortions, including those self-induced;
- (3) Some unforeseen sudden occurrence and the deceased had not been attended by a physician during the thirty-six-hour period preceding the death;
- (4) In any unusual or suspicious manner;
- (5) Any injury or illness while in the custody of the law or while an inmate in a public institution; the police, sheriff, law enforcement officer or official, or any person having

knowledge of such a death shall immediately notify the coroner of the known facts concerning the time, place, manner and circumstances of the death. Immediately upon receipt of notification, the coroner or [his] deputy **coroner** shall take charge of the dead body and fully investigate the essential facts concerning the medical causes of death, including whether by the act of man, and the manner of death. [He] **The coroner or deputy coroner** may take the names and addresses of witnesses to the death and shall file this information in [his] **the coroner's** office. The coroner or [his] deputy **coroner** shall take possession of all property of value found on the body, making exact inventory of such property on [his] **the** report and shall direct the return of such property to the person entitled to its custody or possession. The coroner or [his] deputy **coroner** shall take possession of any object or article which, in [his] **the coroner or the deputy coroner's** opinion, may be useful in establishing the cause of death, and deliver it to the prosecuting attorney of the county.

2. When a death occurs outside a licensed health care facility, the first licensed medical professional or law enforcement official learning of such death shall **immediately** contact the county coroner. Immediately upon receipt of such notification, the coroner or the coroner's deputy shall make the determination if further investigation is necessary, based on information provided by the individual contacting the coroner, and immediately advise such individual of the coroner's intentions.

3. Upon taking charge of the dead body and before moving the body the coroner shall notify the police department of any city in which the dead body is found, or if the dead body is found in the unincorporated area of a county governed by the provisions of sections 58.451 to 58.457, the coroner shall notify the county sheriff [and] **or** the highway patrol and cause the body to remain unmoved until the police department, sheriff or the highway patrol has inspected the body and the surrounding circumstances and carefully noted the appearance, the condition and position of the body and recorded every fact and circumstance tending to show the cause and manner of death, with the names and addresses of all known witnesses, and shall subscribe the same and make such record a part of [his] **the coroner's** report.

4. In any case of sudden, violent or suspicious death after which the body was buried without any investigation or autopsy, the coroner, upon being advised of such facts, may at [his] **the coroner's** own discretion request that the prosecuting attorney apply for a court order requiring the body to be exhumed.

5. The coroner [shall] **may** certify the cause of death in any case [under his charge] **where death occurred without medical attendance or where an attending physician refuses to sign a certificate of death or** when a physician is unavailable to sign a certificate of death.

6. When the cause of death is established by the coroner, [he] **the coroner** shall file a copy of [his] **the** findings in [his] **the coroner's** office within thirty days.

7. If on view of the dead body and after personal inquiry into the cause and manner of death, the coroner determines that a further examination is necessary in the public interest, the coroner on [his] **the coroner's** own authority may make or cause to be made an autopsy on the body. The coroner may on [his] **the coroner's** own authority employ the services of a pathologist, chemist, or other expert to aid in the examination of the body or of substances supposed to have caused or contributed to death, and if the pathologist, chemist, or other expert is not already employed by the city or county for the discharge of such services, [he] **the pathologist, chemist, or other expert** shall, upon written authorization of the coroner, be allowed reasonable compensation, payable by the city or county, in the manner provided in section 58.530. The coroner shall, at the time of the autopsy, record or cause to be recorded each fact and circumstance tending to show the condition of the body and the cause and manner of death.

8. If on view of the dead body and after personal inquiry into the cause and manner of death, the coroner considers a further inquiry and examination necessary in the public interest, [he] **the coroner** shall make out [his] **the coroner's** warrant directed to the sheriff of the city or county requiring [him] **the sheriff** forthwith to summon six good and lawful citizens of the

county to appear before the coroner, at the time and place expressed in the warrant, and to inquire how and by whom the deceased [came to his death] **died**.

9. (1) When a person is being transferred from one county to another county for medical treatment and such person dies while being transferred, **or dies while being treated in the emergency room of the receiving facility** the [county from] **place** which the person is [first removed] **determined to be dead** shall be considered the place of death and the county coroner **or medical examiner** of the county from which the person was **originally** being transferred shall be responsible for **determining the cause and manner of death for the Missouri** certificate of death [and for investigating the cause and manner of the death. If].

(2) The coroner or medical examiner in the county in which the person [died believes that further investigation is warranted and a postmortem examination is needed, such coroner or medical examiner shall have the right to further investigate and perform the postmortem examination] **is determined to be dead may with authorization of the coroner or medical examiner from the original transferring county, investigate and conduct postmortem examinations** at the expense of [such] the coroner or medical examiner [and shall be] **from the original transferring county. The coroner or medical examiner from the original transferring county shall be responsible for investigating the circumstances of such and completing the Missouri** certificate of death [and for investigating the cause and manner of the death]. **The certificate of death shall be filed in the county where the deceased was pronounced dead.**

(3) Such coroner or medical examiner **of the county where a person is determined to be dead** shall immediately notify the coroner or medical examiner of the county from which the person was **originally** being transferred of the death of such person [and after an investigation is completed shall notify such coroner or medical examiner of his findings], **and shall make available information and records obtained for investigation of the death.**

(4) If a person does not die while being transferred and is institutionalized **as a regularly admitted patient** after such transfer and subsequently dies while in such institution, the coroner or medical examiner of the county in which the person [dies] **is determined to be dead** shall immediately notify the coroner or medical examiner of the county from which such person was **originally** transferred of the death of such person. In such cases, the county in which the deceased was institutionalized shall be considered the place of death. **If the manner of death is by homicide, suicide, accident, criminal abortion including those that are self-induced, child fatality, or any unusual or suspicious manner, the investigation of the cause and manner of death shall revert to the county of origin, and this coroner or medical examiner shall be responsible for the Missouri certificate of death. The certificate of death shall be filed in the county where the deceased was pronounced dead.**

10. There shall not be any statute of limitations or time limits on the cause of death when death is the final result or determined to be caused by homicide, suicide, accident, child fatality, criminal abortion including those self-induced, or any unusual or suspicious manner. The place of death shall be the place in which the person is determined to be dead. The final investigation of death in determining the cause and matter of death shall revert to the county of origin, and the coroner or medical examiner of such county shall be responsible for the Missouri certificate of death. The certificate of death shall be filed in the county where the deceased was pronounced dead.

[10.] 11. Except as provided in subsection 9 of this section, if a person dies in one county and [his] the body is subsequently transferred to another county, **for burial or other reasons**, the county coroner or medical examiner where the death occurred shall be responsible for the certificate of death and for investigating the cause and manner of the death.

[11.] 12. In performing [his] the duties, the coroner or medical examiner shall [make reasonable efforts to accommodate] **comply with section 58.775 to 58.785 with respect to organ donation.**

58.720. MEDICAL EXAMINER, CERTAIN COUNTIES, TO INVESTIGATE, WHEN — DEATH CERTIFICATE ISSUED, WHEN — PLACE OF DEATH — TWO COUNTIES INVOLVED, HOW DETERMINED — EFFORTS TO ACCOMMODATE ORGAN DONATION. — 1. When any person

dies within a county having a medical examiner as a result of:

- (1) Violence by homicide, suicide, or accident;
- (2) Thermal, chemical, electrical, or radiation injury;
- (3) Criminal abortions, including those self-induced;
- (4) Disease thought to be of a hazardous and contagious nature or which might constitute a threat to public health; or when any person dies:
 - (a) Suddenly when in apparent good health;
 - (b) When unattended by a physician, chiropractor, or an accredited Christian Science practitioner, during the period of thirty-six hours immediately preceding his death;
 - (c) While in the custody of the law, or while an inmate in a public institution;
 - (d) In any unusual or suspicious manner;

the police, sheriff, law enforcement officer or official, or any person having knowledge of such a death shall immediately notify the office of the medical examiner of the known facts concerning the time, place, manner and circumstances of the death.

Immediately upon receipt of notification, the medical examiner or his designated assistant shall take charge of the dead body and fully investigate the essential facts concerning the medical causes of death. He may take the names and addresses of witnesses to the death and shall file this information in his office. The medical examiner or his designated assistant shall take possession of all property of value found on the body, making exact inventory thereof on his report and shall direct the return of such property to the person entitled to its custody or possession. The medical examiner or his designated assistant examiner shall take possession of any object or article which, in his opinion, may be useful in establishing the cause of death, and deliver it to the prosecuting attorney of the county.

2. When a death occurs outside a licensed health care facility, the first licensed medical professional or law enforcement official learning of such death shall contact the county medical examiner. Immediately upon receipt of such notification, the medical examiner or the medical examiner's deputy shall make a determination if further investigation is necessary, based on information provided by the individual contacting the medical examiner, and immediately advise such individual of the medical examiner's intentions.

3. In any case of sudden, violent or suspicious death after which the body was buried without any investigation or autopsy, the medical examiner, upon being advised of such facts, may at his own discretion request that the prosecuting attorney apply for a court order requiring the body to be exhumed.

4. The medical examiner shall certify the cause of death in any case where death occurred without medical attendance or where an attending physician refuses to sign a certificate of death, and may sign a certificate of death in the case of any death.

5. When the cause of death is established by the medical examiner, he shall file a copy of his findings in his office within thirty days after notification of the death.

6. (1) When a person is being transferred from one county to another county for medical treatment and such person dies while being transferred, **or dies while being treated in the emergency room of the receiving facility**, the [county from] **place** which the person is [first removed] **determined to be dead** shall be considered the place of death and **the county coroner or** the medical examiner of the county from which the person was **originally** being transferred shall be responsible for **determining the cause and manner of death for the Missouri** certificate of death [and for investigating the cause and manner of the death. If].

(2) The coroner or medical examiner in the county in which the person [died believes that further investigation is warranted and a postmortem examination is needed, such coroner or

medical examiner shall have the right to further investigate and perform the postmortem examination] **is determined to be dead may, with authorization of the coroner or medical examiner from the transferring county, investigate and conduct postmortem examinations** at the expense of [such] **the** coroner or medical examiner [and shall be responsible for the certificate of death and for investigating the cause and manner of the death] **from the transferring county. The coroner or medical examiner from the transferring county, shall be responsible for investigating the circumstances of such and completing the Missouri certificate of death. The certificate of death shall be filed in the county where the deceased was pronounced dead.**

(3) Such coroner or medical examiner, **or the county where a person is determined to be dead,** shall immediately notify the coroner or medical examiner of the county from which the person was **originally** being transferred of the death of such person [and after an investigation is completed shall notify such coroner or medical examiner of his findings] **and shall make available information and records obtained for investigation of death.**

(4) If a person does not die while being transferred and is institutionalized **as a regularly admitted patient** after such transfer and subsequently dies while in such institution, the coroner or medical examiner of the county in which the person [dies] **is determined to be dead** shall immediately notify the coroner or medical examiner of the county from which such person was **originally** transferred of the death of such person. In such cases, the county in which the deceased was institutionalized shall be considered the place of death. **If the manner of death is by homicide, suicide, accident, criminal abortion including those that are self-induced, child fatality, or any unusual or suspicious manner, the investigation of the cause and manner of death shall revert to the county of origin, and this coroner or medical examiner shall be responsible for the Missouri certificate of death. The certificate of death shall be filed in the county where the deceased was pronounced dead.**

7. There shall not be any statute of limitations or time limits on cause of death when death is the final result or determined to be caused by homicide, suicide, accident, criminal abortion, including those self-induced, child fatality, or any unusual or suspicious manner. The place of death shall be the place in which the person is determined to be dead, but the final investigation of death determining the cause and manner of death shall revert to the county of origin, and this coroner or medical examiner shall be responsible for the Missouri certificate of death. The certificate of death shall be filed in the county where the deceased was pronounced dead.

[7.] 8. Except as provided in subsection 6 of this section, if a person dies in one county and [his] **the** body is subsequently transferred to another county, **for burial or other reasons,** the county coroner or medical examiner where the death occurred shall be responsible for the certificate of death and for investigating the cause and manner of the death.

[8.] 9. In performing [his] **the** duties, the coroner or medical examiner shall [make reasonable efforts to accommodate organ donation] **comply with sections 58.775 to 58.785 with respect to organ donation.**

58.775. APPLICABILITY OF DEFINITIONS. — For the purpose of sections 58.775 to 58.785, the definitions in section 194.210, RSMo, are applicable.

58.780. COOPERATION WITH PROCUREMENT ORGANIZATION REQUIRED — POSTMORTEM EXAMINATION REQUIREMENTS — REMOVAL OF BODY PARTS PERMITTED, WHEN. — 1. A coroner or medical examiner shall cooperate with a procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

2. If a coroner or medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner or medical examiner and a post-mortem

examination is going to be performed, unless the coroner or medical examiner denies recovery in accordance with section 58.785, the coroner or medical examiner or designee shall conduct a post-mortem examination of the body or the part in a manner and within a time period compatible with its preservation for the purposes of the gift.

3. A part may not be removed from the body of a decedent under the jurisdiction of a coroner or medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner or medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner or medical examiner.

58.785. RELEASE OF DECEDENT INFORMATION TO PROCUREMENT ORGANIZATIONS, WHEN — MEDICOLEGAL EXAMINATION PERMITTED — RECOVERY OF BODY PARTS, REQUIREMENTS. — 1. Upon request of a procurement organization, a coroner or medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner or medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the coroner or medical examiner shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the coroner or medical examiner only if relevant to transplantation or therapy.

2. The coroner or medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a prospective donor or a donor whose body is under the jurisdiction of the coroner or medical examiner which the coroner or medical examiner determines may be relevant to the investigation.

3. A person that has any information requested by a coroner or medical examiner under subsection 2 of this section shall provide that information as expeditiously as possible to allow the coroner or medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for purposes of transplantation, therapy, research, or education.

4. If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner or medical examiner and a post-mortem examination is not required, or the coroner or medical examiner determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner or medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for purposes of transplantation, therapy, research, or education.

5. If an anatomical gift of a part from the decedent under the jurisdiction of the coroner or medical examiner has been or might be made, but the coroner or medical examiner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the coroner or medical examiner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner or medical examiner may allow recovery.

6. Following the consultation under subsection 5 of this section, in the absence of mutually agreed upon protocols to resolve conflict between the coroner or medical examiner and the procurement organization, if the coroner or medical examiner intends to deny recovery, the coroner or medical examiner or his or her designee, at the request

of the procurement organization, shall attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the coroner or medical examiner or his or her designee may allow recovery by the procurement organization to proceed, or, if the coroner or medical examiner or his or her designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

7. If the coroner or medical examiner or his or her designee denies recovery under subsection 6 of this section, the coroner or medical examiner or his or her designee shall:

- (1) Explain in a record the specific reasons for not allowing recovery of the part;
- (2) Include the specific reasons in the records of the coroner or medical examiner;

and

- (3) Provide a record with the specific reasons to the procurement organization.

8. If the coroner or medical examiner or his or her designee allows recovery of a part under subsection 4, 5, or 6 of this section, the procurement organization shall, upon request, cause the physician or technician who removes the part to provide the coroner or medical examiner with a record describing the condition of the part, a biopsy, photograph, and any other information and observations that would assist in the post-mortem examination.

9. If a coroner or medical examiner or his or her designee is required to be present at a removal procedure under subsection 6 of this section, the procurement organization requesting the recovery of the part shall, upon request, reimburse the coroner or medical examiner or his or her designee for the additional costs incurred in complying with subsection 6 of this section.

194.119. RIGHT OF SEPULCHER, THE RIGHT TO CHOOSE AND CONTROL FINAL DISPOSITION OF A DEAD HUMAN BODY. — 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) **An attorney in fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney in fact;**

(2) The surviving spouse;

[(2)] (3) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

[(3)] (4) (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the minor; or

(c) If the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;

[(4)] (5) Any surviving sibling of the deceased;

[(5)] Any person designated by the deceased to act as next-of-kin pursuant to a valid designation of right of sepulcher as provided in subsection 8 of this section;]

(6) The next nearest surviving relative of the deceased by consanguinity or affinity;

(7) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility;

(8) The county coroner or medical examiner; provided however that such assumption of responsibility shall not make the coroner, medical examiner, the county, or the state financially responsible for the cost of disposition.

3. The next-of-kin of the deceased shall be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes.

4. A funeral director or establishment is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the deceased; provided however, in any civil cause of action against a funeral director or establishment licensed pursuant to this chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such funeral director or establishment may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

5. Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition shall notify such individual or individuals prior to making final arrangements.

6. If an individual with a superior claim is personally served with written notice from a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does not object within forty-eight hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge of any objection by other members of such class, the funeral director or establishment shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

[8. Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher shall be witnessed by two persons, and shall contain the names and last known address of each person entitled to be next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person so designated.]

194.210. DEFINITIONS. — [As used in sections 194.210 to 194.290, the following words and terms mean:

(1) "Bank or storage facility", a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof;

(2) "Decedent", a deceased individual and includes a stillborn infant or fetus;

(3) "Donor", an individual who makes a gift of all or part of his body;

(4) "Hospital", a hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws;

(5) "Part", organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body;

(6) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(7) "Physician" or "surgeon", a physician or surgeon licensed or authorized to practice under the laws of any state;

(8) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.] **1. Sections 194.210 to 194.294 may be cited as the "Revised Uniform Anatomical Gift Act".**

2. As used in sections 194.210 to 194.294, the following terms mean:

- (1) "Adult", an individual who is at least eighteen years of age;
 - (2) "Agent", an individual:
 - (a) Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or
 - (b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal;
 - (3) "Anatomical gift", a donation of all or part of a human body to take effect after the donor's death for the purposes of transplantation, therapy, research, or education;
 - (4) "Cadaver procurement organization", an entity lawfully established and operated for the procurement and distribution of anatomical gifts to be used as cadavers or cadaver tissue for appropriate education or research;
 - (5) "Decedent", a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant but does not include an unborn child as defined in section 1.205 or 188.015, RSMo, if the child has not died of natural causes;
 - (6) "Disinterested witness", a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under section 194.255;
 - (7) "Document of gift", a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry;
 - (8) "Donor", an individual whose body or part is the subject of an anatomical gift provided, that donor does not include an unborn child as defined in section 1.205, RSMo, or section 188.015, RSMo, if the child has not died of natural causes;
 - (9) "Donor registry", a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts;
 - (10) "Driver's license", a license or permit issued by the department of revenue to operate a vehicle whether or not conditions are attached to the license or permit;
 - (11) "Eye bank", a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes;
 - (12) "Guardian", a person appointed by a court pursuant to chapter 475, RSMo. The term does not include a guardian ad litem;
 - (13) "Hospital", a facility licensed as a hospital under the laws of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state;
 - (14) "Identification card", an identification card issued by the department of revenue;
 - (15) "Know", to have actual knowledge;
 - (16) "Minor", an individual who is under eighteen years of age;
 - (17) "Organ procurement organization", a person designated by the United States Secretary of Health and Human Services as an organ procurement organization;
 - (18) "Parent", a parent whose parental rights have not been terminated;
 - (19) "Part", an organ, an eye, or tissue of a human being. The term does not include the whole body;
 - (20) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or
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governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(21) "Physician", an individual authorized to practice medicine or osteopathy under the laws of any state;

(22) "Procurement organization", an eye bank, organ procurement organization, or tissue bank;

(23) "Prospective donor", an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal;

(24) "Reasonably available", able to be contacted by a procurement organization with reasonable effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift;

(25) "Recipient", an individual into whose body a decedent's part has been or is intended to be transplanted;

(26) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(27) "Refusal", a record created under section 194.235 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part;

(28) "Sign", with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach or logically associate with the record an electronic symbol, sound, or process;

(29) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the United States;

(30) "Technician", an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an eye enucleator;

(31) "Tissue", a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for purposes of research or education;

(32) "Tissue bank", a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue;

(33) "Transplant hospital", a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

194.215. APPLICABILITY OF LAW. — Sections 194.210 to 194.294 apply to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

194.220. REGISTRY TO BE ESTABLISHED — GIFT MAY BE MADE BY WHOM. — 1. [Any individual of sound mind who is at least eighteen years of age may give all or any part of his or her body for any purpose specified in section 194.230, the gift to take effect upon death. Any individual who is a minor and at least sixteen years of age may effectuate a gift for any purpose specified in section 194.230, provided parental or guardian consent is deemed given. Parental or guardian consent shall be noted on the minor's donor card, donor's instruction permit or driver's license, as the attorney-in-fact pursuant to subsection 2 of this section, or other document of gift. An express gift that is not revoked by the donor before death is irrevocable, and the donee shall be authorized to accept the gift without obtaining the consent of any other person. The provisions of this subsection, relating to allowing a minor who is at least sixteen years of age to effectuate a gift for any purpose specified in section 194.230, through the driver's license or instruction permit application process, shall be effective July 1, 2003.]

2. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual knowledge of a gift by the decedent pursuant to subsection 1 of this section or actual notice of contrary indications by the decedent or of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 194.230:

(1) An attorney-in-fact under a durable power of attorney that expressly refers to making a gift of all or part of the principal's body pursuant to the uniform anatomical gift act;

(2) The spouse;

(3) An adult son or daughter;

(4) Either parent;

(5) An adult brother or sister;

(6) A guardian of the person of the decedent at the time of his or her death;

(7) Any other person authorized or under obligation to dispose of the body.

3. If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection 2 of this section may make the gift after or immediately before death.

4. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

5. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection 4 of section 194.270.] **(1) The department of health and senior services shall establish or contract for the establishment of a first person consent organ and tissue donor registry.**

(2) The department of health and senior services and the department of revenue shall advise the individual that he or she is under no obligation to have his or her name included in the first person consent organ and tissue donor registry.

(3) An individual who agrees to have his or her name in the first person consent organ and tissue donor registry has given full legal consent to the donation of any of his or her organs or tissues upon his or her death as recorded in the registry or as subject in subsection 2 of this section.

(4) An individual may withdraw his or her consent to be listed in the first person consent organ and tissue donor registry as indicated in this section. The department of health and senior services and the department of revenue shall provide information to an individual advising them that withdrawal of his or her consent to be listed in the registry does not constitute a refusal to make an anatomical gift of the individual's body or part, and that his or her agent or any person listed in section 194.245 having priority to make an anatomical gift on behalf of the individual may make a gift of the individual's body or part.

(5) The department of health and senior services and the department of revenue shall provide information advising the individual that if he or she wants to bar other persons from making an anatomical gift of his or her body or part, the individual must execute a refusal under section 194.235.

2. Subject to section 194.240, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 194.225 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) Authorized under state law to apply for a driver's license;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; or

(4) The donor's guardian.

194.225. PROCEDURE FOR MAKING A GIFT — DONOR CARDS, REQUIREMENTS — GIFT MADE BY WILL, EFFECT OF.— 1. A donor may make an anatomical gift:

- (1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;
- (2) In a will;
- (3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults at least one of whom is a disinterested witness; or
- (4) As provided in subsection 2 of this section.

2. A donor or other person authorized to make an anatomical gift under section 194.220 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or the other person and shall:

- (1) Be witnessed by at least two adults at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
- (2) State that it has been signed and witnessed as provided in subdivision (1) of subsection 1 of this section.

3. Revocation, suspension, expiration, or cancellation of the driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

4. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

194.230. AMENDMENT OR REVOCATION, PROCEDURE. — [The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

- (1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or
- (2) Any accredited medical or dental school, college or university or the state anatomical board for education, research, advancement of medical or dental science, or therapy; or
- (3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or
- (4) Any specified individual for therapy or transplantation needed by such individual.] 1.

Subject to section 194.240, a donor or other person authorized to make an anatomical gift under section 194.220 may amend or revoke an anatomical gift by:

- (1) A record signed by:
 - (a) The donor;
 - (b) The other person; or
 - (c) Subject to subsection 2 of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign;
- or

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

2. A record signed under paragraph (c) of subdivision (1) of subsection 1 of this section shall:

- (1) Be witnessed by at least two adults at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
- (2) State that it has been signed and witnessed as provided in subdivision (1) of subsection 2 of this section.

3. Subject to section 194.240, a donor or other person authorized to make an anatomical gift under section 194.220 may revoke the gift by the destruction or

cancellation of the document of gift, or a portion of the document of gift used to make the gift, with the intent to revoke the gift.

4. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults at least one of whom is a disinterested witness.

5. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection 1 of this section.

194.235. REFUSAL TO MAKE A GIFT, EVIDENCED HOW, REQUIREMENTS. — 1. An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) A record signed by:

(a) The individual; or

(b) Subject to subsection 2 of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) The individual's will whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults at least one of whom is a disinterested witness.

2. A record signed under paragraph (b) of subdivision (1) of subsection 1 of this section shall:

(1) Be witnessed by at least two adults at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that it has been signed and witnessed as provided in subdivision (1) of subsection 2 of this section.

3. An individual may amend or revoke a refusal:

(1) In the manner provided in subsection 1 of this section for making a refusal;

(2) By subsequently making an anatomical gift under section 194.225 that is inconsistent with the refusal; or

(3) By the destroying or cancelling of the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

4. Except as otherwise provided in subsection 8 of section 194.240, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or a part bars all other persons from making an anatomical gift of the individual's body or the part.

194.240. PERSON OTHER THAN DONOR BARRED FROM MAKING, AMENDING, OR REVOKING DONOR'S GIFT — REVOCATION NOT A BAR TO MAKING A GIFT — PARENT MAY REVOKE OR AMEND A GIFT OF A CHILD. — 1. [A gift of all or part of the body under subsection 1 of section 194.220 may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

2. A gift of all or part of the body under subsection 1 of section 194.220 may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence or before a notary or other official authorized to administer oaths generally. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

3. The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by a physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death or if the gift cannot be implemented, a physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

4. Notwithstanding the provisions of subsection 2 of section 194.270, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician to carry out the appropriate procedures. For the purpose of removing an eye or part thereof, any medical technician employed by a hospital, physician or eye bank and acting under supervision may perform the appropriate procedures. Any medical technician authorized to perform such procedure shall successfully complete the course prescribed in section 194.295 for embalmers.

5. Any gift by a person designated in subsection 2 of section 194.220 shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

6. A gift of part of the body under subsection 1 of section 194.220 may also be made by a statement on a form which shall be provided on the reverse side of all Missouri motor vehicle licenses issued pursuant to chapter 302, RSMo. The statement to be effective shall be signed by the owner of the license in the presence of two witnesses, who shall sign the statement in the presence of the donor. Use of the form is prima facie evidence that the owner of the license intended to make the anatomical gift, and there shall be no civil or criminal liability for removal of any part of the body indicated on the form by a licensed physician or surgeon. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make the gift valid. The gift shall become invalidated upon expiration, cancellation, revocation, or suspension of the license, and the gift must be renewed upon renewal of each license. Pertinent medical information which may affect the quality of the gift may be included in the statement of gift.

7. Any person eighteen years of age or older, or any person under the age of eighteen with parental consent who indicates the desire to make an organ donation through any method prescribed in this section may also contact the department of health and senior services when completing such form, so that the information may be included in the registry maintained by the department pursuant to subsection 1 of section 194.304. Failure to contact the department of health and senior services shall not be construed to challenge the validity of the organ donation.

8. Organ procurement organizations and tissue banks may employ coordinators to assist in the procurement of cadaveric organs and tissue for transplant or research. A coordinator who assists in the procurement of cadaveric organs or tissue for transplantation or research must do so under the direction and supervision of a physician or surgeon. With the exception of organ procurement surgery, this supervision may be indirect supervision. For purposes of this subsection, the term "indirect supervision" means that a physician or surgeon is responsible for the medical actions of the coordinator, that the coordinator is acting under protocols expressly approved by a physician or surgeon, and that a physician or surgeon is available, in person or by telephone, to provide medical direction, consultation and advice in cases of organ and tissue donation and procurement.

9. The department of health and senior services shall collect information and publish an annual report which shall include the number of organ and tissue donations made in the state, the number of organ or tissue donations received by citizens of the state of Missouri, the number of organ or tissue donations transported outside the state boundaries and the cost of such organ or tissue donations.] **Except as otherwise provided in subsection 7 of this section and**

subject to subsection 6 of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or a part if the donor made an anatomical gift of the donor's body or the part under section 194.225 or an amendment to an anatomical gift of the donor's body or the part under section 194.230.

2. A donor's revocation of an anatomical gift of the donor's body or a part under section 194.230 is not a refusal and does not bar another person specified in section 194.220 or 194.245 from making an anatomical gift of the donor's body or a part under section 194.225 or 194.250.

3. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 194.225 or an amendment to an anatomical gift of the donor's body or part under section 194.230, another person may not make, amend, or revoke the gift of the donor's body or part under section 194.250.

4. A revocation of an anatomical gift of the donor's body or a part under section 194.230 by a person other than the donor does not bar another person from making an anatomical gift of the body or a part under section 194.225 or 194.250.

5. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 194.220, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

6. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 194.220, an anatomical gift of a part for one or more purposes set forth in section 194.220 is not a limitation on the making of an anatomical gift of the part for any other purpose by the donor or other person under section 194.225 or 194.250.

7. If a donor who is an unemancipated minor dies, a parent or guardian of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

194.245. GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, PRIORITY LIST FOR PERSONS MAKING. — 1. Subject to subsections 2 and 3 of this section and unless barred by section 194.235 or 194.240, an anatomical gift of a decedent's body or part for purposes of transplantation, therapy, research, or education may be made in the order of priority listed, by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under subdivision (2) of subsection 2 of section 194.220 immediately before the decedent's death;

(2) The spouse of the decedent;

(3) Adult children of the decedent;

(4) Parents of the decedent;

(5) Adult siblings of the decedent;

(6) Adult grandchildren of the decedent;

(7) Grandparents of the decedent;

(8) The persons who were acting as the guardian of the person of the decedent at the time of death; and

(9) Any other public official having the authority to dispose of the decedent's body.

2. If there is more than one member of a class listed in subdivisions (1), (3), (4), (5), (6), (7), or (9) of subsection 1 of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift can pass under section 194.255 knows of an objection by another

member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

3. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection 1 of this section is reasonably available to make or to object to the making of an anatomical gift.

194.250. DOCUMENT OF GIFT BY ORAL COMMUNICATION, PROCEDURE. — [If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.] **1. A person authorized to make an anatomical gift under section 194.245 may make an anatomical gift by a document of gift signed by the person making the gift or that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.**

2. Subject to subsection 3 of this section, an anatomical gift by a person authorized under section 194.245 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 194.245 may be:

(1) Amended only if a majority of reasonably available members agree to the revoking of the gift; or

(2) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

3. A revocation under subsection 2 of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

194.255. PERSONS ELIGIBLE TO RECEIVE GIFT IN THE DOCUMENT OF GIFT — GIFTS NOT NAMING PERSONS, EFFECT OF — REFUSAL OF GIFT REQUIRED WHEN. — **1. An anatomical gift may be made to the following persons named in the document of gift:**

(1) A hospital, accredited medical school, dental school, college, university, or organ procurement organization, cadaver procurement organization, or other appropriate person for research or education;

(2) Subject to subsection 2 of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(3) An eye bank or tissue bank.

2. If an anatomical gift to an individual under subdivision (2) of subsection 1 of this section cannot be transplanted into the individual, the part passes in accordance with subsection 7 of this section in the absence of an express, contrary indication by the person making the anatomical gift.

3. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

4. For the purpose of subsection 3 of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

5. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7 of this section.

6. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7 of this section.

7. For purposes of subsections 2, 5, and 6 of this section, the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank;

(2) If the part is tissue, the gift passes to the appropriate tissue bank;

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(4) If the gift is medically unsuitable for transportation or therapy, the gift may be used for research or education and pass to the appropriate procurement organization or cadaver procurement organization.

8. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subdivision (2) of subsection 1 of this section, passes to the organ procurement organization as custodian of the organ.

9. If an anatomical gift does not pass under subsections 1 through 8 of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

10. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 194.225 or 194.250 or if the person knows that the decedent made a refusal under section 194.235 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

11. A person may not accept an anatomical gift if the person knows that the gift is from the body of an executed prisoner from another country.

12. Except as otherwise provided in subdivision (2) of subsection 1 of this section, nothing in this act affects the allocation of organs for transplantation or therapy.

194.260. REASONABLE SEARCH TO IDENTIFY DONORS — IMMUNITY FROM LIABILITY, WHEN. — 1. [If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) The execution and delivery to the donee of a signed statement, or

(2) An oral statement made in the presence of two persons and communicated to the donee,
or

(3) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or

- (4) A signed card or document found on his person or in his effects.
2. Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection 1, or by destruction, cancellation, or mutilation of the document and all executed copies thereof.
3. Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection 1.] **The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:**
- (1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and
- (2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.
2. If a document of gift or a refusal to make an anatomical gift is located by the search required by subdivision (1) of subsection 1 of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.
3. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

194.263. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED — EXAMINATION AND COPYING OF DOCUMENT PERMITTED, WHEN. — 1. A document of gift need not be delivered during the donor's lifetime to be effective.

2. Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 194.255.

194.265. REFERRAL TO PROCUREMENT ORGANIZATION, DILIGENT SEARCH OF DONOR REGISTRY REQUIRED — REASONABLE EXAMINATION OF BODY PARTS PERMITTED, WHEN — SEARCH FOR MINOR'S PARENTS REQUIRED, WHEN — ATTENDING PHYSICIAN SHALL NOT PROCURE, WHEN. — 1. When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of any donor registry and other applicable records that it knows exist for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

2. A procurement organization must be allowed reasonable access to information in the records of the department of health and senior services and department of revenue to ascertain whether an individual at or near death is a donor.

3. When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows a contrary intent had or has been expressed by the individual or an agent of the individual, or if the individual is incapacitated and he or she has no agent, knows a contrary intent has been expressed by any person listed in section 194.245 having priority to make an anatomical gift on behalf of the individual.

4. Unless prohibited by law other than sections 194.210 to 194.294, at any time after a donor's death, the person to which a part passes under section 194.255 may conduct any

reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

5. Unless prohibited by law other than sections 194.210 to 194.294, an examination under subsection 3 or 4 of this section may include an examination of all medical records of the donor or prospective donor.

6. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke a refusal.

7. Upon referral by a hospital under subsection 1 of this section, a procurement organization shall make a reasonable search for any person listed in section 194.245 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

8. Subject to subsection 9 of section 194.255 and section 58.785, RSMo, the rights of the person to which a part passes under section 194.255 are superior to rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this act, a person that accepts an anatomical gift of an entire body may allow embalming or cremation and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 194.255, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

9. Neither the physician who attends the decedent immediately prior to or at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

10. No physician who removes or transplants a part from the decedent, or a procurement organization, shall have primary responsibility for the health care treatment, or health care decision-making for such individual's terminal condition during the hospitalization for which the individual becomes a donor.

11. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

194.270. HOSPITALS TO ENTER INTO AGREEMENTS WITH PROCUREMENT ORGANIZATIONS. — [1. The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

2. The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate, directly or indirectly, in the procedures for removing or transplanting a part or be a relative within the fourth degree of consanguinity of any donee of a body or part thereof which is removed or transplanted.

3. A person who acts without negligence and in good faith in accord with the terms of this act or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

4. The provisions of this act are subject to the laws of this state prescribing powers and duties with respect to autopsies.] **Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.**

194.275. PURCHASE OR SALE OF BODY PARTS FOR VALUABLE CONSIDERATION PROHIBITED — PENALTY — DEFINITION. — 1. Except as otherwise provided in subsection 2 of this section, a person that for valuable consideration, knowingly purchases or sells a part for any purpose if removal of the whole body or a part from an individual is intended to occur after the individual's death commits a felony and upon pleading or being found guilty is subject to a fine not exceeding fifty thousand dollars or imprisonment not exceeding seven years, or both.

2. For purposes of this section, the term "valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of any part or a whole body.

194.280. FALSIFICATION OF DOCUMENTS, PENALTY. — [Sections 194.210 to 194.290 shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.] **Any person that in order to obtain a financial gain knowingly falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a felony and upon pleading or being found guilty is subject to a fine not exceeding fifty thousand dollars or imprisonment not exceeding seven years, or both.**

194.285. IMMUNITY FROM LIABILITY, WHEN. — 1. A person that acts in accordance with sections 194.210 to 194.294 or with the applicable anatomical gift law of another state that is not inconsistent with the provisions of sections 194.210 to 194.294 or attempts without negligence and in good faith to do so is not liable for the act in any civil action, criminal, or administrative proceeding.

2. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

3. In determining whether an anatomical gift has been made, amended, or revoked under sections 194.210 to 194.294, a person may rely upon representations of individuals listed in subdivisions (2), (3), (4), (5), (6), (7), or (8) of subsection 1 of section 194.245 relating to the individual's relationship to the donor or prospective donor unless the person knows that representation is untrue.

194.290. DECLARATIONS AND ADVANCE HEALTH CARE DIRECTIVES — DEFINITIONS — GIFT IN CONFLICT WITH DONOR OR PHYSICIAN TO RESOLVE. — [Sections 194.210 to 194.290 may be cited as the "Uniform Anatomical Gift Act".] **1.** As used in this section, the following terms mean:

(1) "Advance health-care directive", a power of attorney for health care or a record signed or authorized by a prospective donor, containing the prospective donor's direction concerning a health-care decision for the prospective donor;

(2) "Declaration", a record, including but not limited to a living will, or a do-not-resuscitate order, signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn;

(3) "Health-care decision", any decision regarding the health care of the prospective donor.

2. If a prospective donor has a declaration or advance health-care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive or, if none or the agent is not reasonably available, another person authorized by law to make health-care decisions on behalf of the

prospective donor shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 194.245. Before the resolution of the conflict, measures necessary to ensure the medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

194.292. REQUIREMENTS FOR VALID EXECUTION OF A DOCUMENT OF GIFT — PRESUMPTION OF VALIDITY, WHEN — REQUIREMENTS FOR OUT-OF-STATE EXECUTION OF DOCUMENTS. — 1. A document of gift is valid if executed in accordance with:

- (1) Sections 194.210 to 194.294;
- (2) The laws of the state or country where it was executed; or
- (3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

2. If a document of gift is valid as provided by subsection 1 of this section, the law of this state governs the interpretation of the document of gift.

3. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

4. For purposes of this section, for a document of gift from another state or country to be valid it must be executed by a record, document, or donor registry that expresses the informed consent of a person to make an anatomical gift.

194.293. UNIFORMITY OF LAW A CONSIDERATION IN CONSTRUING STATUTORY PROVISIONS. — In applying and construing sections 194.216 to 194.290, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

194.294. EFFECT OF LAW ON CERTAIN FEDERAL ACTS. — Sections 194.210 to 194.294 modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

194.304. TRANSFER OF DONOR REGISTRY INFORMATION, DEPARTMENT OF REVENUE TO COOPERATE — REGISTRY REQUIREMENTS. — 1. [The department of health and senior services shall maintain a registry of organ donors. The registry shall record any person who indicates through any means, including completing the reverse side of a license to operate a motor vehicle as prescribed in subsection 6 of section 194.240, that the person desires to make an organ donation upon the person's death. Information in such registry shall be released only to appropriate persons or organizations designated by the advisory committee.

2. Any person who has previously put his or her name on the organ donor registry may have that name deleted by filing the appropriate form with the department of health and senior services.] **The department of revenue shall cooperate with any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.**

2. A first person consent organ and tissue donor registry shall:

- (1) Allow a donor or other person authorized under section 194.220 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(2) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) Be accessible for purposes of subdivisions (1) and (2) of this subsection seven days a week on a twenty-four-hour basis.

3. Personally identifiable information on a first person consent organ and tissue donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or the person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE — EXEMPTION FROM REQUIREMENT TO PROVIDE PROOF OF LAWFUL PRESENCE — ONE-YEAR RENEWAL, REQUIREMENTS. — 1. Beginning July 1, 2005, the director shall verify that an applicant for a driver's license is lawfully present in the United States before accepting the application. The director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178. For persons mobilized and deployed with the United States Armed Forces, an application under this subsection shall be considered satisfactory by the department of revenue if it is signed by a person who holds general power of attorney executed by the person deployed, provided the applicant meets all other requirements set by the director.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in

the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ **and tissue** donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by [subsection 6 of section 194.240] **subdivision (1) of subsection 1 of section 194.225, RSMo. A symbol shall be placed on the front of the document indicating the applicant's desire to be listed in the registry.** The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

8. Notwithstanding any provisions of this chapter that requires an applicant to provide proof of lawful presence for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of lawful presence.

9. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of this section and does not have the required documents to prove lawful presence, the department may issue a one-year driver's license renewal. This one-time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove lawful presence. After the expiration of the one-year period, no further renewal shall be provided without the applicant producing proof of lawful presence.

[194.233. ANATOMICAL GIFTS — HOSPITAL TO MAKE REQUEST, TO WHOM, WHEN — VERIFICATION IN PATIENT'S RECORD — HOSPITAL NOT LIABLE FOR COST OF RETRIEVAL. —

1. The chief executive officer of each hospital in this state shall designate one or more trained persons to request anatomical gifts which persons shall not be connected with determination of death. The hospital official may designate a representative of an organ or tissue procurement organization to request consent.

2. When there is a patient who is a suitable candidate for organ or tissue donation based on hospital accepted criteria the designee shall request consent to a donation from the persons authorized to give consent as specified in subdivision (1), (2), (3), (4), (5) or (6) of subsection 2 of section 194.220. The request shall be made in the order of priority stated in subsection 2 of section 194.220. When the hospital cannot, from available information, ascertain that the patient has next-of-kin authorized to give consent as specified in subdivision (2), (3), (4), (5) or (6) of subsection 2 of section 194.220, then the hospital shall notify and request consent to a donation from a member of the class described in subdivision (7) of subsection 2 of section 194.220. Such notification to a member of the class described in subdivision (7) of subsection 2 of section 194.220 shall occur before death where practicable.

3. No request shall be required if the hospital designee has actual notice of a gift by the decedent under subsection 1 of section 194.220 or actual notice of contrary indications by the decedent.

4. Consent shall be obtained by the methods specified in section 194.240.

5. Where a donation is requested, the designee shall verify such request in the patient's medical record. Such verification of request for organ donation shall include a statement to the effect that a request for consent to an anatomical gift has been made, and shall further indicate thereupon whether or not consent was granted, the name of the person granting or refusing the consent, and his or her relationship to the decedent.

6. Upon the approval of the designated next of kin or other individual, as set forth in subsection 2 of section 194.220, the hospital shall then notify an organ or tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts pursuant to applicable provisions of sections 194.210 to 194.290.

7. No hospital shall have an obligation to retrieve the organ or tissue donated pursuant to this section.]

Approved July 10, 2008

SB 1140 [HCS SB 1140]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the lapse threshold for the administrative trust fund

AN ACT to repeal sections 33.103 and 37.005, RSMo, and to enact in lieu thereof two new sections relating to the office of administration, with an emergency clause.

SECTION

- A. Enacting clause.
- 33.103. Deductions authorized to be made from state employees' compensation — debts owed to state, child support payments, tuition programs, cafeteria plan, requirements.
- 37.005. Powers and duties, generally.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 33.103 and 37.005, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 33.103 and 37.005, to read as follows:

33.103. DEDUCTIONS AUTHORIZED TO BE MADE FROM STATE EMPLOYEES' COMPENSATION — DEBTS OWED TO STATE, CHILD SUPPORT PAYMENTS, TUITION PROGRAMS, CAFETERIA PLAN, REQUIREMENTS. — 1. Whenever the employees of any state department, division or agency establish any voluntary retirement plan, or participate in any group hospital service plan, group life insurance plan, medical service plan or other such plan, or if they are members of an employee collective bargaining organization, or if they participate in a group plan for uniform rental, the commissioner of administration may deduct from such employees' compensation warrants the amount necessary for each employee's participation in the plan or collective bargaining dues, provided that such dues deductions shall be made only from those individuals agreeing to such deductions. Before such deductions are made, the person in charge of the department, division or agency shall file with the commissioner of administration an authorization showing the names of participating employees, the amount to be deducted from each such employee's compensation, and the agent authorized to receive the deducted amounts. The amount deducted shall be paid to the authorized agent in the amount of the total deductions by a warrant issued as provided by law.

2. The commissioner of administration may, in the same manner, deduct from any state employee's compensation warrant:

(1) Any amount authorized by the employee for the purchase of shares in a state employees' credit union in Missouri;

(2) Any amount authorized by the employee for contribution to a fund resulting from a united, joint community-wide solicitation or to a fund resulting from a nationwide solicitation by charities rendering services or otherwise fulfilling charitable purposes if the fund is administered in a manner requiring public accountability and public participation in policy decisions;

(3) Any amount authorized by the employee for the payment of dues in an employee association;

(4) Any amount determined to be owed by the employee to the state in accordance with guidelines established by the commissioner of administration which shall include notice to the employee and an appeal process;

(5) Any amount voluntarily assigned by the employee for payment of child support obligations determined pursuant to chapter 452 or 454, RSMo; [and]

(6) Any amount authorized by the employee for contributions to any "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code of 1986, as amended, sponsored by the state of Missouri; **and**

(7) **Any amount for cafeteria plan administrative fees under subdivision (4) of subsection 3 of this section.**

3. The commissioner of administration may establish a cafeteria plan in accordance with Section 125 of Title 26 United States Code for state employees. The commissioner of administration must file a written plan document to be filed in accordance with chapter 536, RSMo. Employees must be furnished with a summary plan description one hundred twenty days prior to the effective date of the plan. In connection with such plans, the commissioner may:

(1) Include as an option in the plan any employee benefit, otherwise available to state employees, administered by a statutorily created retirement system;

(2) Provide and administer, or select companies on the basis of competitive bids or proposals to provide or administer, any group insurance, or other plan which may be included as part of a cafeteria plan, provided such plan is not duplicative of any other plan, otherwise available to state employees, administered by a statutorily created retirement system;

(3) Include as an option in the plan any other product eligible under Section 125 of Title 26 of the United States Code **the selection of which may be solicited by a vendor on site in state facilities**, subject to regulations promulgated by the office of administration, and including payment to the state by vendors providing those products for the cost of administering those deductions, as set by the office of administration; and

(4) Reduce each [participating] employee's compensation warrant by the amount necessary for each employee's participation in the cafeteria plan, [provided that such salary reduction shall be made only with respect to those individuals agreeing to such reduction] **except for those individual employees who affirmatively elect not to participate in the cafeteria plan.** No such reduction in salary for the purpose of participation in a cafeteria plan shall have the effect of reducing the compensation amount used in calculating the state employee's retirement benefit under a statutorily created retirement system or reducing the compensation amount used in calculating the state employee's compensation or wages for purposes of any workers' compensation claim governed by chapter 287, RSMo.

4. Employees may authorize deductions as provided in this section in writing or by electronic enrollment.

37.005. POWERS AND DUTIES, GENERALLY. — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the chief of the planning and construction division.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36, RSMo, and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540, RSMo, relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580, RSMo, and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration shall make the selection of a personnel director from the names of the three highest ranking available eligibles as provided in section 36.080, RSMo. The personnel advisory board, the personnel division and the personnel director in the office of administration shall retain the functions, duties and powers prescribed in chapter 36, RSMo. Members of the personnel advisory board shall be nominated by the commissioner of administration and appointed by the governor with the advice and consent of the senate.

9. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of electronic data processing (EDP) and automatic data processing (ADP) in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of EDP and ADP in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of EDP and ADP hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state EDP and ADP applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for EDP and ADP hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased EDP and ADP equipment, and annually submit a report to the general

assembly which shall include starting and ending EDP and ADP costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

10. Except as provided in subsection 13 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, RSMo, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386, RSMo. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as defined in chapter 394, RSMo, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386, RSMo. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386, RSMo, shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

11. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds [one-twelfth] **one-eighth** of the total amount appropriated, paid, or transferred to the fund during such fiscal year, **and upon approval of the oversight division of the joint committee on legislative research.** The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

12. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

13. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020, RSMo, on June 15,

1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, RSMo, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

14. Notwithstanding any provision of subsection 13 of this section to the contrary, the board of governors of Missouri Western State University, Central Missouri State University, Missouri State University, or Missouri Southern State University; or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University; or the board of curators of Lincoln University may convey or otherwise transfer, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, 2011.

15. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, RSMo, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

16. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205, RSMo, and others, are transferred to the office of administration by a type III transfer.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the effective transfer of state services, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2008

SB 1150 [SCS SB 1150]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the sunset provisions for fees to be credited to the technology trust fund

AN ACT to repeal sections 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-528, and 417.018, RSMo, and to enact in lieu thereof seven new sections relating to fees credited to the technology trust fund.

SECTION

- A. Enacting clause.
- 347.740. Additional fee — expiration date.
- 351.127. Additional fee — expiration date.
- 355.023. Additional fee — expiration date.
- 356.233. Additional fee — expiration date.
- 359.653. Additional fee — expiration date.
- 400.9-528. Additional fee — expiration date.
- 417.018. Additional fee — expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-528, and 417.018, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 347.740, 351.127, 355.023, 356.233, 359.653, 400.9-528, and 417.018, to read as follows:

347.740. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

351.127. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

355.023. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

356.233. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

359.653. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

400.9-528. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee paid to the secretary of state as required in chapter 400.9. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

417.018. ADDITIONAL FEE — EXPIRATION DATE. — The secretary of state may collect an additional fee of five dollars on each and every fee required in this chapter. All fees collected as provided in this section shall be deposited in the state treasury and credited to the secretary of state's technology trust fund account. The provisions of this section shall expire on December 31, [2009] **2017**.

Approved June 25, 2008

SB 1168 [SCS SB 1168]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the formula for computing a refund for credit insurance

AN ACT to repeal section 385.050, RSMo, and to enact in lieu thereof one new section relating to premium refund calculations for credit insurance.

SECTION

A. Enacting clause.

385.050. Revision of premium schedules, procedure for — refunds paid, when — limit on charge for credit life.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 385.050, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 385.050, to read as follows:

385.050. REVISION OF PREMIUM SCHEDULES, PROCEDURE FOR — REFUNDS PAID, WHEN — LIMIT ON CHARGE FOR CREDIT LIFE. — 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the actuarial method of calculating refunds which produces a refund equal to the original premium multiplied by the ratio of the sum of the remaining insured balances divided by the sum of the original insured balances [as of the due date nearest the date of prepayment in full]. **In determining the number of months for which a premium is earned, the first month's premium may be considered as earned on the first day of coverage and for all successive months' premiums, on the coverage anniversary date in each successive month.**

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

Approved June 25, 2008

SB 1170 [HCS SCS SB 1170]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Rebuild Missouri Schools Program to allow no-interest funding to rebuild certain damaged school facilities

AN ACT to repeal section 177.088, RSMo, and to enact in lieu thereof two new sections relating to education boards and commissions, with an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 160.459. Program established — definitions — funding for schools, eligibility — procedures established — rulemaking authority — fund created-sunset provision.
- 177.088. Facilities and equipment may be obtained by agreements with not-for-profit corporation, procedure.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 177.088, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 160.459 and 177.088, to read as follows:

160.459. PROGRAM ESTABLISHED — DEFINITIONS — FUNDING FOR SCHOOLS, ELIGIBILITY — PROCEDURES ESTABLISHED — RULEMAKING AUTHORITY — FUND CREATED-SUNSET PROVISION. — 1. There is hereby established the "Rebuild Missouri Schools Program" under which the state board of education shall distribute no-interest funding to eligible school districts from moneys appropriated by the general assembly to the rebuild Missouri schools program fund for the purposes of this section to assist in paying the costs of emergency projects.

2. As used in this section, the following terms mean:

- (1) "Eligible school district", any public school district that has one or more school facilities that have experienced severe damage or destruction due to an act of God or extreme weather events, including but not limited to tornado, flood, or hail;
- (2) "Emergency project", reconstruction, replacement or renovation of, or repair to, any school facilities located in an area that has been declared a disaster area by the governor or President of the United States because of severe damage;
- (3) "Fund", the rebuild Missouri schools fund created by this section and funded by appropriations of the general assembly;
- (4) "Severe damage", such level of damage as to render all or a substantial portion of a facility within a school district unusable for the purpose for which it was being used immediately prior to the event that caused the damage.

3. Under rules and procedures established by the state board of education, eligible school districts may receive moneys from the fund to pay for the costs of one or more emergency projects.

4. Each eligible school district applying for such funding shall enter into an agreement with the state board of education which shall provide for all of the following:

- (1) The funding shall be used only to pay the costs of an emergency project;
- (2) The eligible school district shall pay no interest for the funding;
- (3) The eligible school district shall, subject to annual appropriation as provided in this section, repay the amount of the funding to the fund in annual installments, which may or may not be equal in amount, not more than twenty years from the date the

funding is received by the eligible school district. If the fund is no longer in existence, the eligible school district shall repay the amount of the funding to the general revenue fund;

(4) The repayment described in subdivision (3) of this subsection shall annually be subject to an appropriation by the board of education of the eligible school district to make such repayment, such appropriation to be, at the discretion of the eligible school district, from such district's incidental fund or capital projects fund;

(5) As security for the repayment, a pledge from the eligible school district to the state board of education of the use and occupancy of the school facilities constituting the emergency project for a period ending not earlier than the date the repayment shall be completed; and

(6) Such other provisions as the state board of education shall provide for in its rules and procedures or as to which the state board of education and the eligible school district shall agree.

5. The amount of funding awarded by the state board of education for any emergency project shall not exceed the cost of that emergency project less the amount of any insurance proceeds or other moneys received by the eligible school district as a result of the severe damage. If the eligible school district receives such insurance proceeds or other moneys after it receives funding under the rebuild Missouri schools program, it shall pay to the state board of education the amount by which the sum of the funding under the rebuild Missouri schools program plus the insurance proceeds and other moneys exceeds the cost of the emergency project. Such payment shall:

(1) Be made at the time the annual payment under the agreement is made;

(2) Be made whether or not the eligible school district has made an appropriation for its annual payment;

(3) Be in addition to the annual payment; and

(4) Not be a credit against the annual payment.

6. Repayments from eligible school districts shall be paid into the fund so long as it is in existence and may be used by the state board of education to provide additional funding under the rebuild Missouri schools program. If the fund is no longer in existence, repayments shall be paid to the general revenue fund.

7. The funding provided for under the rebuild Missouri schools program, and the obligation to repay such funding, shall not be taken into account for purposes of any constitutional or statutory debt limitation applicable to an eligible school district.

8. The state board of education shall establish procedures, criteria, and deadlines for eligible school districts to follow in applying for assistance under this section. The state board of education shall promulgate rules and regulations necessary to implement this section. No regulations, procedures, or deadline shall be adopted by the state board of education that would serve to exclude or limit any public school district that received severe damage after April 1, 2006, from participation in the program established by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

9. There is hereby created in the state treasury the "Rebuild Missouri Schools Fund", which shall consist of money appropriated or collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the purposes of this section. Any moneys remaining

in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

10. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

177.088. FACILITIES AND EQUIPMENT MAY BE OBTAINED BY AGREEMENTS WITH NOT-FOR-PROFIT CORPORATION, PROCEDURE. — 1. As used in this section, the following terms shall mean:

(1) "Board", the board of education, board of trustees, board of regents, or board of governors of an educational institution;

(2) "Educational institution", any school district, including all junior college districts, and any state college or university organized under chapter 174, RSMo.

2. The board of any educational institution may enter into agreements as authorized in this section with a not-for-profit corporation formed under the general not for profit corporation law of Missouri, chapter 355, RSMo, in order to provide for the acquisition, construction, improvement, extension, repair, remodeling, renovation and financing of sites, buildings, facilities, furnishings and equipment for the use of the educational institution for educational purposes.

3. The board may on such terms as it shall approve:

(1) Lease from the corporation sites, buildings, facilities, furnishings and equipment which the corporation has acquired or constructed; or

(2) Notwithstanding the provisions of this chapter or any other provision of law to the contrary, sell or lease at fair market value, which may be determined by appraisal, to the corporation any existing sites owned by the educational institution, together with any existing buildings and facilities thereon, in order for the corporation to acquire, construct, improve, extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and then lease back or purchase such sites, buildings and facilities from the corporation; provided that upon selling or leasing the sites, buildings or facilities, the corporation agrees to enter into a lease for not more than one year but with not more than [twenty] **twenty-five** successive options by the educational institution to renew the lease under the same conditions; and provided further that the corporation agrees to convey or sell the sites, buildings or facilities, including any improvements, extensions, renovations, furnishings or equipment, back to the educational institution with clear title at the end of the period of successive one-year options or at any time bonds, notes or other obligations issued by the corporation to pay for the improvements, extensions, renovations, furnishings or equipment have been paid and discharged.

4. Any consideration, promissory note or deed of trust which an educational institution receives for selling or leasing property to a not-for-profit corporation pursuant to this section shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon shall be commingled with any other funds of the educational institutions. At such time as the title or deed for property acquired, constructed, improved, extended, repaired, remodeled or renovated under this section is conveyed to the educational institution, the consideration shall be returned to the corporation.

5. The board may make rental payments to the corporation under such leases out of its general funds or out of any other available funds, provided that in no event shall the educational institution become indebted in an amount exceeding in any year the income and revenue of the educational institution for such year plus any unencumbered balances from previous years.

6. Any bonds, notes and other obligations issued by a corporation to pay for the acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites, buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental thereof to the educational institution. Such bonds, notes and other obligations issued by a corporation shall not be a debt of the educational institution and the educational institution shall not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out of any funds or properties other than those acquired for the purposes of this section, and such bonds, notes and obligations shall not constitute an indebtedness of the educational institution within the meaning of any constitutional or statutory debt limitation or restriction.

7. The interest on such bonds, notes and other obligations of the corporation and the income therefrom shall be exempt from taxation by the state and its political subdivisions, except for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment owned by a corporation in connection with any project pursuant to this section shall be exempt from taxation.

8. The board may make all other contracts or agreements with the corporation necessary or convenient in connection with any project pursuant to this section. The corporation shall comply with sections 290.210 to 290.340, RSMo.

9. Notice that the board is considering a project pursuant to this section shall be given by publication in a newspaper published within the county in which all or a part of the educational institution is located which has general circulation within the area of the educational institution, once a week for two consecutive weeks, the last publication to be at least seven days prior to the date of the meeting of the board at which such project will be considered and acted upon.

10. Provisions of other law to the contrary notwithstanding, the board may refinance any lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of payment on any lease with the corporation under this section for sites, buildings, facilities, furnishings or equipment which the corporation has acquired or constructed, but such refinance shall not extend the date of maturity of any obligation, and the refinancing obligation shall not exceed the amount necessary to pay or provide for the payment of the principal of the outstanding obligations to be refinanced, together with the interest accrued thereon to the date of maturity or redemption of such obligations and any premium which may be due under the terms of such obligations and any amounts necessary for the payments of costs and expenses related to issuing such refunding obligations and to fund a capital projects reserve fund for the obligations.

11. Provisions of other law to the contrary notwithstanding, payments made from any source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the transfer of the title of real property to the school district, other than those payments made from the capital projects fund, shall be deducted as an adjustment to the funds payable to the district pursuant to section 163.031, RSMo, beginning in the year following the transfer of title to the district, as determined by the department of elementary and secondary education.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of providing suitable and permanent school facilities for students, the enactment of section 160.459 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 160.459 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 10, 2008

SB 1177 [SB 1177]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates licensed professional counselors as mental health professionals in certain circumstances

AN ACT to repeal section 632.005, RSMo, and to enact in lieu thereof one new section relating to licensed professional counselors.

SECTION

A. Enacting clause.

632.005. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 632.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 632.005, to read as follows:

632.005. DEFINITIONS. — As used in chapter 631, RSMo, and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than mental retardation or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

(2) "Council", the Missouri advisory council for comprehensive psychiatric services;

(3) "Court", the court which has jurisdiction over the respondent or patient;

(4) "Division", the division of comprehensive psychiatric services of the department of mental health;

(5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;

(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334, RSMo, or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150, RSMo;

(9) **"Licensed professional counselor", a person licensed as a professional counselor under chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder;**

(10) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

[(10)] (11) "Mental health coordinator", a mental health professional employed by the state of Missouri who has knowledge of the laws relating to hospital admissions and civil commitment and who is appointed by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

[(11)] (12) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or mental retardation facility shall be a mental health facility within the meaning of this chapter;

[(12)] (13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, **licensed professional counselor**, or psychiatric social worker;

[(13)] (14) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the department. No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

[(14)] (15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

[(15)] (16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

[(16)] (17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335, RSMo, and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

[(17)] (18) "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, RSMo, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

[(18)] (19) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

[(19)] **(20)** "Psychologist", a person licensed to practice psychology under chapter 337, RSMo, with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

[(20)] **(21)** "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

[(21)] **(22)** "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

[(22)] **(23)** "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

Approved June 25, 2008

SB 1181 [CCS HCS SCS SBs 1181, 1100, 1262 & 1263]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies and creates provisions pertaining to energy efficiency and energy conservation

AN ACT to repeal sections 8.800, 8.810, 8.812, 8.815, 8.837, 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 64.170, and 143.121, RSMo, and to enact in lieu thereof thirty new sections relating to energy regulation, with penalty provisions.

SECTION

- A. Enacting clause.
- 8.295. Facilities maintenance reserve fund, up to ten percent of moneys to be used for certain energy projects.
- 8.800. Definitions.
- 8.810. State building construction or substantial renovation — analysis required, content — division of design and construction not to let contracts without considering — projection of energy savings required, when.
- 8.812. Minimum energy efficiency standards for state buildings established by rule — compliance required — exemption, when.
- 8.815. Voluntary work group of persons and interest groups with expertise in energy efficiency to be established, duties.
- 8.837. Minimum energy standard to be developed by rule for certain new or renovated state buildings.
- 30.750. Definitions.
- 30.753. Treasurer's authority to invest in linked deposits, limitations.
- 30.756. Lending institution receiving linked deposits, requirements and limitations — false statements as to use for loan, penalty — eligible student borrowers — eligibility, student renewal loans, repayment method — priority for reduced-rate loans.
- 30.758. Loan package acceptance or rejection — loan agreement requirements — linked deposit at reduced market interest rate, when.
- 30.760. Loans to be at fixed rate of interest set by rules — records of loans to be segregated — penalty for violations — state treasurer, powers and duties.
- 30.765. State and state treasurer not liable on loans — default on a loan not to affect deposit agreement with state.
- 64.170. County commissions control construction — issue building permits — Jefferson County, separate provision — vote required for adoption of a building code, when.
- 143.121. Missouri adjusted gross income.
- 144.526. Show Me green sales tax holiday — sales tax exemption for energy star certified new appliances — political subdivision may allow exemption — retailer exception.
- 161.365. Department to establish guidelines and specifications for program — districts to be provided with information — rulemaking authority.
- 251.650. Securing of grants, departments to collaborate — consultation with private entities permitted — report to general assembly.
- 386.850. Task force, required meetings.
- 393.1045. Cap on increase in retail charges based on renewable mandates.

- 640.017. Unified permit schedule authorized for activities requiring multiple permits — department duties — procedure — rulemaking authority.
- 640.153. Home energy audits — definitions — certification process.
- 640.157. Energy center to serve as coordinator of energy sustainability activities, duties.
- 640.216. Fund created, use of moneys — full professorship of energy efficiency and conservation authorized, duties.
- 701.500. New product sales, energy efficiency requirements — exceptions.
- 701.503. Rulemaking authority.
- 701.506. Updating of minimum energy efficiency standards.
- 701.509. Advisory group created — purpose of group — members, terms, meetings.
- 701.512. Testing procedures for new products — certification by manufacturers required — identification of new products in compliance required — testing and inspections — rulemaking authority.
- 701.515. Investigation of complaints — attorney general may enforce.
 - 1. Electrical corporations achieving certain level of renewable energy technology nameplate capacity exempt from certain fees and rebates.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 8.800, 8.810, 8.812, 8.815, 8.837, 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 64.170, and 143.121, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 8.295, 8.800, 8.810, 8.812, 8.815, 8.837, 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 64.170, 143.121, 144.526, 161.365, 251.650, 386.850, 393.1045, 640.017, 640.153, 640.157, 640.216, 701.500, 701.503, 701.506, 701.509, 701.512, 701.515, and 1, to read as follows:

8.295. FACILITIES MAINTENANCE RESERVE FUND, UP TO TEN PERCENT OF MONEYS TO BE USED FOR CERTAIN ENERGY PROJECTS. — Up to ten percent of the amount appropriated each year from the Facilities Maintenance Reserve Fund created in Section 27(b) of Article IV of the Missouri Constitution shall be expended on maintenance, repair, or renovation projects that are otherwise allowable under the constitution but that are also considered energy projects with a fifteen year payback or less.

8.800. DEFINITIONS. — As used in sections 8.800 to 8.825, the following terms mean:

- (1) "Builder", the prime contractor that hires and coordinates building subcontractors or if there is no prime contractor, the contractor that completes more than fifty percent of the total construction work performed on the building. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing and finishing work;
 - (2) "Department", the department of natural resources;
 - (3) "Designer", the architect, engineer, landscape architect, builder, interior designer or other person who performs the actual design work or is under the direct supervision and responsibility of the person who performs the actual design work;
 - (4) "District heating and cooling systems", heat pump systems which use waste heat from factories, sewage treatment plants, municipal solid waste incineration, lighting and other heat sources in office buildings or which use ambient thermal energy from sources including temperature differences in rivers to provide regional heating or cooling;
 - (5) "Division", the division of design and construction;
 - (6) "Energy efficiency", the increased productivity or effectiveness of energy resources use, the reduction of energy consumption, or the use of renewable energy sources;
 - (7) "Gray water", all domestic wastewater from a state building except wastewater from urinals, toilets, laboratory sinks, and garbage disposals;
 - (8) "Life cycle costs", the costs associated with the initial construction or renovation and the proposed energy consumption, operation and maintenance costs over the useful life of a state building or over the first twenty-five years after the construction or renovation is completed;
 - (9) "Public building", a building owned or operated by a governmental subdivision of the state, including, but not limited to, a city, county or school district;
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(10) "Renewable energy source", a source of thermal, mechanical or electrical energy produced from solar, wind, low-head hydropower, biomass, hydrogen or geothermal sources, but not from the incineration of hazardous waste, municipal solid waste or sludge from sewage treatment facilities;

(11) "State agency", a department, commission, authority, office, college or university of this state;

(12) "State building", a building owned by this state or an agency of this state;

(13) **"Substantial renovation" or "substantially renovated", modifications that will affect at least fifty percent of the square footage of the building or modifications that will cost at least fifty percent of the building's fair market value.**

8.810. STATE BUILDING CONSTRUCTION OR SUBSTANTIAL RENOVATION — ANALYSIS REQUIRED, CONTENT — DIVISION OF DESIGN AND CONSTRUCTION NOT TO LET CONTRACTS WITHOUT CONSIDERING — PROJECTION OF ENERGY SAVINGS REQUIRED, WHEN. — 1. In addition to all other requirements imposed by law, the director of the division shall require, for construction of a state building or substantial renovation of an existing state building when major energy systems are involved, that a design professional submit an analysis which meets the design program's space and use requirements and reflects the lowest life cycle cost possible in light of existing commercially available technology. The analysis, using existing commercially available technology, shall include, but shall not be limited to, designs which use renewable energy sources, earth-sheltered construction, systems to recover and use waste heat, thermal storage heat pump systems, ambient thermal energy, district heating and cooling systems, devices to reduce water consumption, and plumbing systems to recover gray water for appropriate reuse.

2. The director of the division shall not let a contract after January 1, 1996, for construction of a state building or substantial renovation of an existing state building when major energy systems are involved before completing an evaluation of the design documents and construction documents based upon life cycle cost factors and the minimum energy efficiency standard established in subsection 1 of section 8.812.

3. Any design documents submitted to the division under this section shall, in addition to any other requirements under law, include a projection of the energy savings that will result from the design features that are employed in order to comply with the minimum energy efficiency standard established in subsection 1 of section 8.812.

8.812. MINIMUM ENERGY EFFICIENCY STANDARDS FOR STATE BUILDINGS ESTABLISHED BY RULE — COMPLIANCE REQUIRED — EXEMPTION, WHEN. — 1. By January 1, [1995] **2009**, the department[, in consultation with the division and the voluntary working group created in subsection 1 of section 8.815,] shall establish, by rule, a minimum energy efficiency standard for construction of a state building **over five thousand square feet**, substantial renovation of a state building **over five thousand square feet** when major energy systems are involved or a building **over five thousand square feet** which the state or state agency considers for acquisition or lease. Such standard shall be at least as stringent as the [American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90] **International Energy Conservation Code 2006, or the latest [revision] version thereof.**

2. All design which is initiated on or after July 1, [1995] **2009**, for construction of a state building **over five thousand square feet** or substantial renovation of a state building **over five thousand square feet** when major energy systems are involved or any building **over five thousand square feet** which the state or state agency considers for acquisition or lease after July 1, [1995] **2009**, shall meet applicable provisions of the minimum energy efficiency standard.

3. The commissioner of the office of administration may exempt any building from the requirements of subsection 2 of this section:

(1) When compliance with the minimum energy efficiency standard may compromise the safety of the building or any of its occupants; or

(2) When the cost of compliance is expected to exceed the projected energy cost savings gained.

8.815. VOLUNTARY WORK GROUP OF PERSONS AND INTEREST GROUPS WITH EXPERTISE IN ENERGY EFFICIENCY TO BE ESTABLISHED, DUTIES. — The department and the division shall establish a voluntary working group of persons and interest groups with expertise in energy efficiency, including, but not limited to, such persons as electrical engineers, mechanical engineers, builders, **contractors**, architects, landscape architects, **interior designers**, nonprofit organizations, **persons affiliated with gas or electric utilities**, and persons with expertise in solar and renewable energy forms. The voluntary working group shall advise the department on the development of the energy efficiency standard and shall assist the department in implementation of the standard by recommending, reviewing and coordinating education programs for designers, builders, businesses and other interested persons to facilitate incorporation of the standard into existing practices.

8.837. MINIMUM ENERGY STANDARD TO BE DEVELOPED BY RULE FOR CERTAIN NEW OR RENOVATED STATE BUILDINGS. — 1. By [July 1, 1994] **January 1, 2009**, the department shall establish, by rule, a minimum energy efficiency standard for new and substantially renovated state buildings **over five thousand square feet** which shall be at least as stringent as the [American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90.01-1989, as revised, and shall be at least as stringent as any statewide energy efficiency standard required pursuant to the Energy Policy Act of 1992 (Public Law 102-486)] **International Energy Conservation Code 2006, or the latest version thereof.**

2. All new or substantially renovated state buildings **over five thousand square feet** for which design of such construction or renovation is initiated on or after July 1, [1994] **2009**, shall meet applicable provisions of the minimum energy efficiency standard.

30.750. DEFINITIONS. — As used in sections 30.750 to 30.767, the following terms mean:

(1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) "**Eligible alternative energy operation**", a business enterprise engaged in the production and sale of fuel or power from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass. Such business enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision (5) of this section;

(3) "Eligible beginning farmer",

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

a. Is a Missouri resident;

b. Wishes to borrow for a farm operation located in Missouri;

c. Is at least eighteen years old; and

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than fifty percent of the average size farm in the county where the proposed farm operation is located or farm land with an appraised value greater than four hundred fifty thousand dollars.

A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment, livestock and working capital;

(b) For any beginning farmer who is participating in both the linked deposit program and the beginning farmer loan program administered by the Missouri agriculture and small business development authority, a farmer who:

a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal tax-exempt financing, including the limitations on the use of loan proceeds; and

b. Meets all other requirements established by the Missouri agriculture and small business development authority;

[(3)] **(4)** "Eligible facility borrower", a borrower qualified under section 30.860 to apply for a reduced-rate loan under sections 30.750 to 30.767;

[(4)] **(5)** "Eligible farming operation", any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, that has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices, operating facilities, or farming operations and transacts business in this state;

(c) Employs less than ten employees;

(d) Is organized for profit;

(e) Possesses not more than sixty percent equity, where "percent equity" is defined as total assets minus total liabilities divided by total assets, except that an otherwise eligible farming operation applying for a loan for the purpose of installing or improving a waste management practice in order to comply with environmental protection regulations shall be exempt from this eligibility requirement;

[(5)] **(6)** "Eligible higher education institution", any approved public or private institution as defined in section 173.205, RSMo;

[(6)] **(7)** "Eligible job enhancement business", a new, existing, or expanding firm operating in Missouri, or as a condition of accepting the linked deposit, will locate a facility or office in Missouri associated with said linked deposit, which employs ten or more employees in Missouri on a yearly average and which, as nearly as possible, is able to establish or retain at least one job in Missouri for each fifty thousand dollars received from a linked deposit loan;

[(7)] **(8)** "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural or student loans or discount or purchase such loans, is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity, eligible for the placement of state funds under the provisions of section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit program;

[(8)] **(9)** "Eligible livestock operation", any person engaged in production of livestock or poultry in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo;

[(9)] **(10)** "Eligible locally owned business", any person seeking to establish a new firm, partnership, cooperative company, or corporation that shall retain at least fifty-one percent ownership by residents in a county in which the business is headquartered, that consists of the following characteristics:

(a) The county has a median population of twelve thousand five hundred or less; and

(b) The median income of residents in the county are equal to or less than the state median income; or

(c) The unemployment rate of the county is equal to or greater than the state's unemployment rate;

[(10)] **(11)** "Eligible marketing enterprise", a business enterprise operating in this state which is in the process of marketing its goods, products or services within or outside of this state or overseas, which marketing is designed to increase manufacturing, transportation, mining, communications, or other enterprises in this state, which has proposed its marketing plan and strategy to the department of economic development and which plan and strategy has been approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.767. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision [(4)] **(5)** of this section and also employ less than twenty-five employees;

[(11)] (12) "Eligible multitenant development enterprise", a new enterprise that develops multitenant space for targeted industries as determined by the department of economic development and approved by the department for the purposes of eligibility pursuant to sections 30.750 to 30.767;

[(12)] (13) "Eligible residential property developer", an individual who purchases and develops a residential structure of either two or four units, if such residential property developer uses and agrees to continue to use, for at least the five years immediately following the date of issuance of the linked deposit loan, one of the units as his principal residence or if such person's principal residence is located within one-half mile from the developed structure and such person agrees to maintain the principal residence within one-half mile of the developed structure for at least the five years immediately following the date of issuance of the linked deposit loan;

[(13)] (14) "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

[(14)] (15) "Eligible small business", a person engaged in an activity with the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision [(4)] (5) of this section, and also employs less than twenty-five employees;

[(15)] (16) "Eligible student borrower", any person attending, or the parent of a dependent undergraduate attending, an eligible higher education institution in Missouri who may or may not qualify for need-based student financial aid calculated by the federal analysis called Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986);

[(16)] (17) "Eligible water supply system", a water system which serves fewer than fifty thousand persons and which is owned and operated by:

- (a) A public water supply district established pursuant to chapter 247, RSMo; or
- (b) A municipality or other political subdivision; or
- (c) A water corporation;

and which is certified by the department of natural resources in accordance with its rules and regulations to have suffered a significant decrease in its capacity to meet its service needs as a result of drought;

[(17)] (18) "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;

[(18)] (19) "Linked deposit", a certificate of deposit, or in the case of production credit associations, the subscription or purchase outright of obligations described in section 15, article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at rates otherwise provided by law in section 30.758, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in sections 30.750 to 30.767, to eligible small businesses, **eligible alternative energy operations**, eligible locally owned businesses, farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems at below the present borrowing rate applicable to each small business, farming operation, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the time of the deposit of state funds in the institution;

[(19)] (20) "Market rate", the interest rate tied to federal government securities and more specifically described in subsection 4 of section 30.260;

(21) "Professional forester", any individual who holds a bachelor of science degree in forestry from a regionally accredited college or university with a minimum of two years of professional forest management experience;

(22) "Qualified biomass", any agriculture-derived organic material or any wood-derived organic material harvested in accordance with a site specific forest management plan focused on long-term forest sustainability developed by a professional forester and qualified, in consultation with the conservation commission, by the agriculture and small business development authority;

[(20)] (23) "Water corporation", as such term is defined in section 386.020, RSMo;

[(21)] (24) "Water system", as such term is defined in section 386.020, RSMo.

30.753. TREASURER'S AUTHORITY TO INVEST IN LINKED DEPOSITS, LIMITATIONS. — 1.

The state treasurer may invest in linked deposits; however, the total amount so deposited at any one time shall not exceed, in the aggregate, seven hundred twenty million dollars. No more than three hundred thirty million dollars of the aggregate deposit shall be used for linked deposits to eligible farming operations, eligible locally owned businesses, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, and eligible facility borrowers, no more than one hundred ten million of the aggregate deposit shall be used for linked deposits to small businesses, no more than twenty million dollars shall be used for linked deposits to eligible multitenant development enterprises, and no more than twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, no more than two hundred twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses and no more than twenty million dollars of the aggregate deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible student borrowers **and eligible alternative energy operations** from the aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation, and funds initially allocated to another type are available and not in demand, the state treasurer may commingle allocations among the types of linked deposits.

2. The minimum deposit to be made by the state treasurer to an eligible lending institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked deposit loans for eligible job enhancement businesses may be made for the purposes of assisting with relocation expenses, working capital, interim construction, inventory, site development, machinery and equipment, or other expenses necessary to create or retain jobs in the recipient firm.

30.756. LENDING INSTITUTION RECEIVING LINKED DEPOSITS, REQUIREMENTS AND LIMITATIONS — FALSE STATEMENTS AS TO USE FOR LOAN, PENALTY — ELIGIBLE STUDENT BORROWERS — ELIGIBILITY, STUDENT RENEWAL LOANS, REPAYMENT METHOD — PRIORITY FOR REDUCED-RATE LOANS. — 1. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible multitenant enterprises, eligible farming operations, **eligible alternative energy operations**, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible residential property developers, eligible residential property owners, eligible student borrowers, eligible facility borrowers, and eligible water supply systems. An eligible residential property owner shall certify on his or her loan application that the reduced rate loan will be used exclusively to purchase, develop or rehabilitate a multifamily residential property. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential

property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system. No linked deposit loan made to any eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible livestock operation, eligible agribusiness or eligible small business shall exceed a dollar limit determined by the state treasurer in the state treasurer's best judgment, except as otherwise limited. Any link deposit loan made to an eligible facility borrower shall be in accordance with the loan amount and loan term requirements in section 30.860.

2. An eligible farming operation, small business or job enhancement business shall certify on its loan application that the reduced rate loan will be used exclusively for necessary production expenses or the expenses listed in subsection 2 of section 30.753 or the refinancing of an existing loan for production expenses or the expenses listed in subsection 2 of section 30.753 of an eligible farming operation, small business or job enhancement business. Whoever knowingly makes a false statement concerning such application is guilty of a class A misdemeanor. An eligible water supply system shall certify on its loan application that the reduced rate loan shall be used exclusively to pay the costs of upgrading or repairing an existing water system, constructing a new water system, or making other capital improvements to a water system which are necessary to improve the service capacity of the system.

3. In considering which eligible farming operations should receive reduced-rate loans, the eligible lending institution shall give priority to those farming operations which have suffered reduced yields due to drought or other natural disasters and for which the receipt of a reduced-rate loan will make a significant contribution to the continued operation of the recipient farming operation.

4. The eligible financial institution shall forward to the state treasurer a linked deposit loan package, in the form and manner as prescribed by the state treasurer. The package shall include such information as required by the state treasurer, including the amount of each loan requested. The institution shall certify that each applicant is an eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, and shall, for each eligible farming operation, small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, certify the present borrowing rate applicable.

5. The eligible lending institution shall be responsible for determining if a student borrower is an eligible student borrower. A student borrower shall be eligible for an initial or renewal reduced-rate loan only if, at the time of the application for the loan, the student is a citizen or permanent resident of the United States, a resident of the state of Missouri as defined by the coordinating board for higher education, is enrolled or has been accepted for enrollment in an eligible higher education institution, and establishes that the student has financial need. In considering which eligible student borrowers may receive reduced-rate loans, the eligible lending institution may give priority to those eligible student borrowers whose income, or whose family income, if the eligible student borrower is a dependent, is such that the eligible student borrower does not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986). The eligible lending institution shall require the eligible student borrower to document that the student has applied for and has obtained all need-based student financial aid for which the student is eligible prior to application for a reduced-rate loan pursuant to this section. In no case shall the combination of all financial aid awarded to any student in any particular enrollment period exceed the total cost of attendance at the institution in which the student is enrolled. No eligible lending institution shall charge any

additional fees, including but not limited to an origination, service or insurance fee on any loan agreement under the provisions of sections 30.750 to 30.765.

6. The eligible lending institution making an initial loan to an eligible student borrower may make a renewal loan or loans to the student. The total of such reduced-rate loans from eligible lending institutions made pursuant to this section to any individual student shall not exceed the cumulative totals established by 20 U.S.C. 1078, as amended. An eligible student borrower shall certify on his or her loan application that the reduced rate loan shall be used exclusively to pay the costs of tuition, incidental fees, books and academic supplies, room and board and other fees directly related to enrollment in an eligible higher education institution. The eligible lending institution shall make the loan payable to the eligible student borrower and the eligible higher education institution as co-payees. The method of repayment of the loan shall be the same as for repayment of loans made pursuant to sections 173.095 to 173.186, RSMo.

7. Beginning August 28, 2005, in considering which eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system should receive reduced-rate loans, the eligible lending institution shall give priority to an eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system that has not previously received a reduced-rate loan through the linked deposit program. However, nothing shall prohibit an eligible lending institution from making a reduced-rate loan to any entity that previously has received such a loan, if such entity otherwise qualifies for such a reduced-rate loan.

30.758. LOAN PACKAGE ACCEPTANCE OR REJECTION — LOAN AGREEMENT REQUIREMENTS — LINKED DEPOSIT AT REDUCED MARKET INTEREST RATE, WHEN. — 1. The state treasurer may accept or reject a linked deposit loan package or any portion thereof.

2. The state treasurer shall make a good faith effort to ensure that the linked deposits are placed with eligible lending institutions to make linked deposit loans to minority- or female-owned eligible multitenant enterprises, eligible farming operations, **eligible alternative energy operations**, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems. Results of such effort shall be included in the linked deposit review committee's annual report to the governor.

3. Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place linked deposits with the eligible lending institution as follows: when market rates are five percent or above, the state treasurer shall reduce the market rate by up to three percentage points to obtain the linked deposit rate; when market rates are less than five percent, the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit rate, provided that the linked deposit rate is not below one percent. All linked deposit rates are determined and calculated by the state treasurer. When necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan package.

4. The eligible lending institution shall enter into a deposit agreement with the state treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750 to 30.767. The deposit agreement shall specify the length of time for which the lending institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals

shall not exceed five years, except as otherwise provided in this chapter. The agreement shall also include provisions for the linked deposit of a linked deposit for an eligible facility borrower, eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, **eligible** small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or job enhancement business. Interest shall be paid at the times determined by the state treasurer.

5. The period of time for which such linked deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit is used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive market interest rates on any linked deposit or any portion thereof for any period of time for which there is no corresponding linked deposit loan outstanding to an eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, except as otherwise provided in this subsection. Within thirty days after the annual anniversary date of the linked deposit, the eligible lending institution shall repay the state treasurer any linked deposit principal received from borrowers in the previous yearly period and thereafter repay such principal within thirty days of the yearly anniversary date calculated separately for each linked deposit loan, and repaid at the linked deposit rate. Such principal payment shall be accelerated when more than thirty percent of the linked deposit loan is repaid within a single monthly period. Any principal received and not repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving line of credit agreement between the banking institution and its borrower, the full amount of the line of credit shall be excluded from the repayment provisions of this subsection.

30.760. LOANS TO BE AT FIXED RATE OF INTEREST SET BY RULES — RECORDS OF LOANS TO BE SEGREGATED — PENALTY FOR VIOLATIONS — STATE TREASURER, POWERS AND DUTIES. — 1. Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible multitenant enterprise, eligible farm operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system listed in the linked deposit loan package required by section 30.756 and in accordance with the deposit agreement required by section 30.758. The loan shall be at a fixed rate of interest reduced by the amount established under subsection 3 of section 30.758 to each eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system as determined pursuant to rules and regulations promulgated by the state treasurer under the provisions of chapter 536, RSMo, including emergency rules issued pursuant to section 536.025, RSMo. In addition, the loan agreement shall specify that the eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower,

eligible facility borrower, or eligible water supply system shall use the proceeds as required by sections 30.750 to 30.765, and that in the event the loan recipient does not use the proceeds in the manner prescribed by sections 30.750 to 30.765, the remaining proceeds shall be immediately returned to the lending institution and that any proceeds used by the loan recipient shall be repaid to the lending institution as soon as practicable. All records and documents pertaining to the programs established by sections 30.750 to 30.765 shall be segregated by the lending institution for ease of identification and examination. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution. Any lender or lending officer of an eligible lending institution who knowingly violates the provisions of sections 30.750 to 30.765 is guilty of a class A misdemeanor.

2. The state treasurer shall take any and all steps necessary to implement the linked deposit program and monitor compliance of eligible multitenant enterprises, eligible lending institutions, eligible farming operations, **eligible alternative energy operations**, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible facility borrowers, or eligible water supply systems.

30.765. STATE AND STATE TREASURER NOT LIABLE ON LOANS — DEFAULT ON A LOAN NOT TO AFFECT DEPOSIT AGREEMENT WITH STATE. — The state and the state treasurer are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible multitenant enterprise, eligible farm operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system. Any delay in payments or default on the part of an eligible multitenant enterprise, eligible farming operation, **eligible alternative energy operation**, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system does not in any manner affect the deposit agreement between the eligible lending institution and the state treasurer.

64.170. COUNTY COMMISSIONS CONTROL CONSTRUCTION — ISSUE BUILDING PERMITS — JEFFERSON COUNTY, SEPARATE PROVISION — VOTE REQUIRED FOR ADOPTION OF A BUILDING CODE, WHEN. — 1. For the purpose of promoting the public safety, health and general welfare, to protect life and property and to prevent the construction of fire hazardous buildings, the county commission in all counties of the first and second classification, as provided by law, is for this purpose empowered, subject to the provisions of subsections **2 and 3** [and 4] of this section, to adopt by order or ordinance regulations to control the construction, reconstruction, alteration or repair of any building or structure and any electrical wiring or electrical installation, plumbing or drain laying therein, and provide for the issuance of building permits and adopt regulations licensing persons, firms or corporations other than federal, state or local governments, public utilities and their contractors engaged in the business of electrical wiring or installations and provide for the inspection thereof and establish a schedule of permit, license and inspection fees and appoint a building commission to prepare the regulations, as herein provided.

2. [For the purpose of promoting the public safety, health and general welfare, to protect life and property, the county commission in a county of the first classification having a population of more than one hundred sixty thousand but less than two hundred thousand, as

provided by law, is for this purpose empowered to adopt by order or ordinance regulations to control the construction, reconstruction, alteration or repair of any building or structure, and provide for the issuance of building permits and adopt regulations licensing contractors, firms or corporations other than federal, state or local governments, public utilities and their contractors engaged in the business of plumbing or drain laying and provide for the inspection thereof and establish a schedule of permit, license and inspection fee and appoint a building commission to prepare the regulations, as herein provided.

3.] Any county which has not adopted a building code prior to August 28, 2001, pursuant to sections 64.170 to 64.200, shall not have the authority to adopt a building code pursuant to such sections unless the authority is approved by voters, subject to the provisions of subsection [4.] 3 of this section.

The ballot of submission for authority pursuant to this subsection shall be in substantially the following form:

"Shall (insert name of county) have authority to create, adopt and impose a county building code?"

☐ YES

☐ NO

[4.] 3. The proposal of the authority to adopt a building code shall be voted on only by voters in the area affected by the proposed code, such that a code affecting a county shall not be voted upon by citizens of any incorporated territory.

143.121. MISSOURI ADJUSTED GROSS INCOME. — 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002;

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal taxable income but disallowed for Missouri income tax purposes pursuant to this paragraph after June 18, 2002, may be carried forward and taken against any income on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss; and

(e) For nonresident individuals in all taxable years ending on or after December 31, 2006, the amount of any property taxes paid to another state or a political subdivision of another state for which a deduction was allowed on such nonresident's federal return in the taxable year.

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002;

(h) For all tax years beginning on or after January 1, 2005, the amount of any income received for military service while the taxpayer serves in a combat zone which is included in federal adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone" means any area which the President of the United States by Executive Order designates as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combat activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; and

(i) For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection.

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

6. In addition to the modifications to a taxpayer's federal adjusted gross income in this section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or involuntary conversion of property as a result of condemnation or the imminence thereof.

7. (1) As used in this subsection, "qualified health insurance premium" means the amount paid during the tax year by such taxpayer for any insurance policy primarily providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

(2) In addition to the subtractions in subsection 3 of this section, one hundred percent of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for such premiums is included in federal taxable income. The taxpayer shall provide the department of revenue with proof of the amount of qualified health insurance premiums paid.

8. (1) Beginning January 1, 2009, in addition to the subtractions provided in this section, one hundred percent of the cost incurred by a taxpayer for a home energy audit conducted by an entity certified by the department of natural resources under section 640.153, RSMo, or the implementation of any energy efficiency recommendations made in such an audit shall be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for any such activity is included in federal taxable income. The taxpayer shall provide the department of revenue with a summary of any recommendations made in a qualified home energy audit, the name and certification number of the qualified home energy auditor who conducted the audit, and proof of the amount paid for any activities under this subsection for which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any recommendations made in a qualified home energy audit to the department of natural resources.

(2) At no time shall a deduction claimed under this subsection by an individual taxpayer or taxpayers filing combined returns exceed one thousand dollars per year or cumulatively exceed two thousand dollars per taxpayer or taxpayers filing combined returns.

(3) Any deduction claimed under this subsection shall be claimed for the tax year in which the qualified home energy audit was conducted or in which the implementation of the energy efficiency recommendations occurred. If implementation of the energy efficiency recommendations occurred during more than one year, the deduction may be claimed in more than one year, subject to the limitations provided under subdivision (2) of this subsection.

(4) A deduction shall not be claimed for any otherwise eligible activity under this subsection if such activity qualified for and received any rebate or other incentive through a state-sponsored energy program or through an electric corporation, gas corporation, electric cooperative, or municipally-owned utility.

9. The provisions of subsection 8 of this section shall expire on December 31, 2013.

144.526. SHOW ME GREEN SALES TAX HOLIDAY — SALES TAX EXEMPTION FOR ENERGY STAR CERTIFIED NEW APPLIANCES — POLITICAL SUBDIVISION MAY ALLOW EXEMPTION — RETAILER EXCEPTION. — 1. This section shall be known, and may be cited as the "Show Me Green Sales Tax Holiday".

2. For purposes of this section, the following terms mean:

(1) "Appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, air conditioners, furnaces, refrigerators and freezers; and

(2) "Energy star certified", any appliance approved by both the United States Environmental Protection Agency and the United States Department of Energy as eligible to display the energy star label, as amended from time to time.

3. In each year beginning on or after January 1, 2009, there is hereby specifically exempted from state sales tax law all retail sales of any energy star certified new appliance, up to one thousand five hundred dollars per appliance, during a seven-day period beginning at 12:01 a.m. on April nineteenth and ending at midnight on April twenty-fifth.

4. A political subdivision may allow the sales tax holiday under this section to apply to its local sales taxes by enacting an ordinance to that effect. Any such political subdivision shall notify the department of revenue not less than forty-five calendar days prior to the beginning date of the sales tax holiday occurring in that year of any such ordinance or order.

5. This section may not apply to any retailer when less than two percent of the retailer's merchandise offered for sale qualifies for the sales tax holiday. The retailer shall offer a sales tax refund in lieu of the sales tax holiday.

161.365. DEPARTMENT TO ESTABLISH GUIDELINES AND SPECIFICATIONS FOR PROGRAM — DISTRICTS TO BE PROVIDED WITH INFORMATION — RULEMAKING AUTHORITY. — 1. The department of elementary and secondary education shall, in consultation with the department of health and senior services, and a panel of interested stakeholders, including cleaning product industry representatives, nongovernmental organizations, and others, establish and amend on an annual basis guidelines and specifications for green cleaning programs, including environmentally-sensitive cleaning and maintenance products, paper product purchases, and equipment purchases for cleaning programs. The department shall provide multiple avenues by which cleaning products may be determined to be environmentally-sensitive under the guidelines. Guidelines and specifications shall be established after a review and evaluation of existing research and shall be completed no later than one hundred eighty days after August 28, 2008. Guidelines and specifications may include implementation practices, including inspection. The completed guidelines and specifications shall be posted on the department of elementary and secondary education's official web site.

2. Upon completion of the guidelines and specifications required under subsection 1 of this section, the department of elementary and secondary education shall provide each district with a printed copy of the guidelines and specifications. Each district shall then immediately disseminate the guidelines and specifications to every school in the district. In the event the guidelines and specifications are updated by the department of elementary and secondary education, the department shall provide the updates to each district for immediate dissemination to each school. Additionally, the department of elementary and secondary education shall post all updated materials on the department's official web site.

3. The department of elementary and secondary education may promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

251.650. SECURING OF GRANTS, DEPARTMENTS TO COLLABORATE — CONSULTATION WITH PRIVATE ENTITIES PERMITTED — REPORT TO GENERAL ASSEMBLY. — 1. Not less

than twice each calendar year, representatives from the department of labor and industrial relations, the department of elementary and secondary education, the department of agriculture, the department of economic development, and the department of natural resources shall meet to discuss ways in which their respective agencies may collaborate in order to secure grants established in the Energy Independence and Security Act of 2007, Public Law 110-140, or other such grants that would fund: green jobs; the production of renewable fuels; increasing energy efficiency of products, buildings and vehicles; and increasing research and development relating to the manufacturing of renewable energy technologies. The department of natural resources is hereby designated as the coordinating agency for the inter-agency collaboration under this section.

2. In fulfilling the goals under this section, any of the departments under subsection 1 of this section may confer with, or invite participation by, any other interested individual, agency, or organization, which shall include but not be limited to non-profit organizations, private sector entities, institutions of higher education, and local governments. Such departments may enter into partnerships with, in accordance with federal grant requirements and as otherwise allowable by law, any individual, agency, or organization in securing a grant under this section.

3. No later than the first Wednesday after the first Monday of January each year, the departments outlined in subsection 1 of this section shall report jointly to the general assembly and to the governor the actions taken by their agencies in securing the grants outlined in this section.

386.850. TASK FORCE, REQUIRED MEETINGS. — The Missouri energy task force created by executive order 05-46 shall reconvene at least one time per year for the purpose of reviewing progress made toward meeting the recommendations set forth in the task force's final report as issued under the executive order. The task force shall issue its findings in a status report to the governor and general assembly no later than December thirty-first of each year.

393.1045. CAP ON INCREASE IN RETAIL CHARGES BASED ON RENEWABLE MANDATES. — Any renewable mandate required by law shall not raise the retail rates charged to the customers of electric retail suppliers by an average of more than one percent in any year, and all the costs associated with any such renewable mandate shall be recoverable in the retail rates charged by the electric supplier. Solar rebates shall be included in the one percent rate cap provided for in this section.

640.017. UNIFIED PERMIT SCHEDULE AUTHORIZED FOR ACTIVITIES REQUIRING MULTIPLE PERMITS — DEPARTMENT DUTIES — PROCEDURE — RULEMAKING AUTHORITY. — 1. For activities that may require multiple environmental state permits, an applicant may request to coordinate a unified permit schedule with the department which covers the timing and order to obtain such permits. In determining the schedule, the department and applicant shall consider which permits are most critical for the regulated activity, the need for unified public participation for all of the regulated aspects of the permitted activity, the applicant's anticipated staging of construction and financing for the permitted activity, and the applicant's use of innovative environmental approaches or strategies to minimize its environmental impacts.

2. The department may initiate the unified permits process for a class of similar activities by notifying any known applicants interested in those regulated activities of the intent to use the unified process. To the extent practicable and consistent with the purposes of this section, the department shall coordinate with interested applicants on the unified permit schedule.

3. The department shall determine all of the permits required for a specific proposed activity based on information provided by the applicant; additional information regarding the proposed activity may result in different permits being required. The department shall propose a unified permitting schedule to interested applicants. Any multiple-permit applicant may decline at any time to have its permits processed in accordance with the schedule and instead proceed in a permit-by-permit approach. The department shall publicize the order and tentative schedule on the department's Internet web site.

4. Following the establishment of a unified permit schedule, the director shall notify the applicant in writing of the order in which the applicant shall obtain permits. The department shall proceed to consider applications accordingly and may only modify the schedule with the consent of the applicant through the date of the public hearing. Each application shall be reviewed by the department based solely on its own merits and compliance with the applicable law.

5. The department shall coordinate with the applicant, to the extent possible, to align the unified permit process so that all public meetings or hearings related to the permits are consolidated into one hearing in a location near the facility.

6. In furtherance of this section, the director may waive otherwise applicable procedural requirements related to timing as set forth in state environmental laws or rules found in this chapter and chapters 260, 444, and 644, RSMo, so long as:

- (1) The public comment periods related to each permit are not shortened; and
- (2) The unified permitting schedule does not impair the ability of the applicant or the department to comply with substantive legal requirements related to the permit application.

7. The director shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

640.153. HOME ENERGY AUDITS — DEFINITIONS — CERTIFICATION PROCESS. — 1. As used in this section, the following terms mean:

- (1) "Applicant", an entity that applies to the department for certification as a qualified home energy auditor;
- (2) "Department", the department of natural resources;
- (3) "Qualified home energy audit", a home energy audit conducted by an entity certified by the department as a qualified home energy auditor, the purpose of which is to provide energy efficiency recommendations that will reduce the energy use or the utility costs or both, of a residential or commercial building;
- (4) "Qualified home energy auditor", an applicant who has met the certification requirements established by the department and whose certification has been approved by the department.

2. The department shall develop criteria and requirements for certification of qualified home energy auditors. Any applicant shall provide the department with an application, documentation, or other information as the department may require. The department may establish periodic requirements for qualified home energy auditors to maintain certification.

3. The department shall provide successful applicants with written notice that the applicant meets the certification requirements.

640.157. ENERGY CENTER TO SERVE AS COORDINATOR OF ENERGY SUSTAINABILITY ACTIVITIES, DUTIES. — The energy center of the department of natural resources shall serve as a central point of coordination for activities relating to energy sustainability in the state. As such, the energy center shall:

(1) Consult and cooperate with other state agencies to serve as a technical advisor on sustainability issues, including but not limited to, renewable energy use and green building design and construction;

(2) Provide technical assistance to local governments, businesses, schools, and homeowners on sustainability issues, including but not limited to, renewable energy use and green building design and construction; and

(3) Conduct outreach and education efforts, which may be in coordination with community action agencies, for the purpose of informing the general public about financial assistance opportunities for energy conservation, including but not limited to, tax incentives.

640.216. FUND CREATED, USE OF MONEYS — FULL PROFESSORSHIP OF ENERGY EFFICIENCY AND CONSERVATION AUTHORIZED, DUTIES. — 1. There is hereby created in the state treasury the "Studies in Energy Conservation Fund", which shall consist of moneys appropriated by the general assembly or donated by any individual or entity. The fund shall be administered by the department of higher education in coordination with the department of natural resources. Upon appropriation, money in the fund shall be used solely for the purposes set forth in this section and for any administrative expenses involving the implementation of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Subject to an initial appropriation from the fund, there is hereby established at the discretion of the department of higher education in coordination with the department of natural resources a full professorship of energy efficiency and conservation.

3. At such time as the professorship of energy efficiency and conservation required by subsection 2 of this section has been established, the department of higher education in coordination with the department of natural resources may appropriate any remaining moneys from the fund for the purpose of establishing substantially similar full professorships of energy efficiency and conservation at any public university within this state.

4. The duties of the full professor of energy efficiency and conservation and of any professors holding positions established under subsection 3 of this section shall primarily be to conduct studies and research regarding energy efficiency, but may also include studies and research regarding renewable energy. Such research may involve the evaluation of policy proposals and legislation relating to energy efficiency or renewable energy.

701.500. NEW PRODUCT SALES, ENERGY EFFICIENCY REQUIREMENTS — EXCEPTIONS. — 1. As used in sections 701.500 to 701.515, the following terms shall mean:

(1) "Department", the department of natural resources;

(2) "Director", the director of the department of natural resources;

(3) "Energy Star program", a joint program of the United States Environmental Protection Agency and the United States Department of Energy that identifies and promotes energy efficient products and practices.

2. The provisions of sections 701.500 to 701.515 shall apply to appliances and consumer electronics that have earned the Energy Star under the Energy Star program or that have minimum energy efficiency standards required under federal law.

3. No person shall sell, offer for sale, or install any new product listed in subsection 2 of this section in the state unless the product meets the minimum energy efficiency standards under sections 701.500 to 701.515.

4. The provisions of sections 701.500 to 701.515 shall not apply to products:

- (1) Manufactured in the state and sold outside the state;
- (2) Manufactured outside the state and sold at wholesale inside the state for final retail sale outside the state;
- (3) Installed in mobile manufactured homes at the time of construction; or
- (4) Designed expressly for installation and use in recreational vehicles.

701.503. RULEMAKING AUTHORITY. — 1. In conjunction with the advisory group under section 701.509, the director shall promulgate, by rule, the minimum energy efficiency standards for the products in subsection 2 of section 701.500. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

2. The standards enacted by the director, in conjunction with the advisory group under section 701.509, shall not be more stringent than the federal Energy Star program requirements or, if no such requirements are applicable, the minimum standard required by federal law.

701.506. UPDATING OF MINIMUM ENERGY EFFICIENCY STANDARDS. — In conjunction with the advisory group under section 701.509, the department shall update the minimum energy efficiency standards in section 701.503 not less than once every three years beginning from the date the standards were first promulgated by rule. The purpose of any such update shall be to keep the state standards current with technological advancements and industry practices with regard to energy efficiency, while also giving due consideration to consumer and environmental costs and benefits. The department shall strive to have the standards achieve greater energy efficiency over time in a prudent and reasonable manner. Standards shall not be more stringent than required by the federal Energy Star program requirements or, if no such requirements are applicable, the minimum standard required by federal law.

701.509. ADVISORY GROUP CREATED — PURPOSE OF GROUP — MEMBERS, TERMS, MEETINGS. — 1. The "Appliance Energy Efficiency Advisory Group" is hereby created. The purpose of the advisory group is to advise the department on the development and updating of the minimum energy efficiency standards for products under sections 701.500 to 701.515. The advisory group shall consist of the following eleven members who shall be appointed, in staggered terms, by the director:

- (1) A representative from the public service commission who is knowledgeable in energy efficiency;
- (2) A representative of the office of public counsel;
- (3) A representative of an electric or natural gas utility who is knowledgeable in energy efficiency;

(4) The director of the energy center at the department of natural resources, or his or her designee;

(5) Two representatives from the appliance manufacturing industry;

(6) Three representatives with technical knowledge in energy efficiency and appliances, including but not limited to, electrical or energy engineers;

(7) One representative from the home construction industry; and

(8) One representative from the commercial building industry.

2. Each member shall serve a term of three years and may be reappointed. The advisory group members shall serve without compensation but may be reimbursed for expenses incurred in connection with their duties. The advisory group shall meet as needed, but not less than two times per year. The department shall provide staff for the advisory group.

701.512. TESTING PROCEDURES FOR NEW PRODUCTS — CERTIFICATION BY MANUFACTURERS REQUIRED — IDENTIFICATION OF NEW PRODUCTS IN COMPLIANCE REQUIRED — TESTING AND INSPECTIONS — RULEMAKING AUTHORITY. — 1. The department shall adopt procedures for testing the energy efficiency of the new products covered by sections 701.500 to 701.515. The department shall use United States Department of Energy approved test methods, or in the absence of such test methods, other appropriate nationally recognized test methods. The manufacturers of such products shall cause samples of their products to be tested in accordance with the test procedures adopted pursuant to sections 701.500 to 701.515.

2. Manufacturers of new products covered by sections 701.500 to 701.515 shall certify to the director that such products are in compliance with the provisions of sections 701.500 to 701.515. The director shall promulgate regulations governing the certification of such products and may coordinate with the certification program of other states with similar standards.

3. Manufacturers of new products covered by sections 701.500 to 701.515 shall identify each product offered for sale or installation in the state as in compliance with the provisions of sections 701.500 to 701.515 by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The director shall promulgate regulations governing the identification of such products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards.

4. The director may test products covered by sections 701.500 to 701.515. If products so tested are found not to be in compliance with the minimum efficiency standards established under sections 701.500 to 701.515, the director shall:

(1) Charge the manufacturer of such product for the cost of product purchase and testing, and

(2) Make information available to the public on products found not to be in compliance with the standards.

5. The director may cause periodic inspections to be made of distributors or retailers of new products covered by sections 701.500 to 701.515 in order to determine compliance with the provisions of these sections.

6. The director is hereby granted the authority to adopt such further regulations as necessary to insure the proper implementation and enforcement of the provisions of sections 701.500 to 701.515. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a

rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

701.515. INVESTIGATION OF COMPLAINTS — ATTORNEY GENERAL MAY ENFORCE. — The director shall investigate complaints received concerning violations of sections 701.500 to 701.515 and shall report the results of such investigations to the attorney general. The attorney general may institute proceedings to enforce the provisions of sections 701.500 to 701.515.

SECTION 1. ELECTRICAL CORPORATIONS ACHIEVING CERTAIN LEVEL OF RENEWABLE ENERGY TECHNOLOGY NAMEPLATE CAPACITY EXEMPT FROM CERTAIN FEES AND REBATES. — Notwithstanding any other provision of law, any electrical corporation as defined by subdivision 15 of section 386.020, RSMo, which, by January 20, 2009, achieves an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be exempt thereafter from a requirement to pay any installation subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any mandated solar renewable energy standard requirements. Any disputes or denial of exemptions under this section may be reviewable by the circuit court of Cole County as prescribed by law.

Approved July 10, 2008

SB 1187 [SB 1187]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes the ninety-nine member cap on the Water Patrol membership

AN ACT to repeal section 306.228, RSMo, and to enact in lieu thereof one new section relating to the number of uniformed members of the Missouri state water patrol.

SECTION

A. Enacting clause.

306.228. Authorized personnel appointments by the commissioner — national emergency, personnel called in to military service — discrimination prohibited.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 306.228, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 306.228, to read as follows:

306.228. AUTHORIZED PERSONNEL APPOINTMENTS BY THE COMMISSIONER — NATIONAL EMERGENCY, PERSONNEL CALLED IN TO MILITARY SERVICE — DISCRIMINATION PROHIBITED. — 1. The commissioner may appoint from within the membership not more than one assistant commissioner, two majors, nine captains, nine lieutenants, and one director of radio, each of whom shall have the same qualifications as the commissioner, and such additional force of sergeants, corporals and patrolmen[, so that the total number of members of the patrol shall not exceed ninety-nine officers and patrolmen] and such numbers of radio personnel as the commissioner deems necessary.

2. In case of a national emergency the commissioner may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Applicants shall not be discriminated against because of race, creed, color, national origin, religion or sex.

Approved June 10, 2008

SB 1235 [SCS SB 1235]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions related to a trustee's powers under the Missouri Uniform Trust Code

AN ACT to repeal sections 362.550, 456.8-802, and 456.8-816, RSMo, and to enact in lieu thereof three new sections relating to the Missouri uniform trust code.

SECTION

A. Enacting clause.

362.550. Appointment as fiduciary — investments — handling of trust property — effect of merger or consolidation.

456.8-802. Duty of loyalty.

456.8-816. Specific powers of trustee.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 362.550, 456.8-802, and 456.8-816, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 362.550, 456.8-802, and 456.8-816, to read as follows:

362.550. APPOINTMENT AS FIDUCIARY — INVESTMENTS — HANDLING OF TRUST PROPERTY — EFFECT OF MERGER OR CONSOLIDATION. — 1. When any trust company organized pursuant to the laws of this state shall have been nominated as personal representative of the last will of any deceased person, the court or officer authorized pursuant to the law of this state to grant letters testamentary thereon shall, upon proper application, grant letters testamentary thereon to the trust company or to its successor by merger.

2. When application is made for the appointment of a personal representative on the estate of any deceased person, and there is no person entitled to the letters, or if there is one so entitled then, on the application of the person, the court or officer making the appointment may grant letters of administration with will annexed to any trust company.

3. Any trust company may be appointed conservator, trustee, personal representative, receiver, assignee or in any other fiduciary capacity, in the manner now provided by law for appointment of individuals to any such office. On the application of any natural person acting in any such office, or on the application of any natural persons acting jointly in any such office, any trust company may be appointed by the court or officer having jurisdiction in the place and stead of the person or persons; or on the application of the person or persons any trust company may be appointed to the office to act jointly with the person or persons theretofore appointed, or appointed at the same time; provided, the appointment shall not increase the compensation to be paid the joint fiduciaries over the amount pursuant to the law payable to a fiduciary acting alone.

4. Any natural person or persons heretofore or hereafter appointed as guardian, trustee, personal representative, receiver, assignee, or in any other fiduciary capacity, desiring to have their bond under the office reduced, or desiring to be appointed under a reduced bond, the person

or persons may apply to the court to have their appointment put or made under such limitation of powers and upon such terms and conditions as to the deposits of assets by the person or persons with any trust company, under such reduced bond to be given by the person or persons as the court or judge shall prescribe, and the court or judge may make any proper order in the premises.

5. Any investments made by any trust company of money received by it in any fiduciary capacity shall be at its sole risk, and for all losses of such money the capital stock and property of the company shall be absolutely liable, unless the investments are such as are proper when made by an individual acting in such fiduciary capacity, or such as are permitted under and by the instrument or order creating or defining the trust. Any trust company in the exercise of its fiduciary powers as personal representative, guardian, trustee or other fiduciary capacity, may retain and continue to hold, as an investment of an estate, trust or other account administered by it as fiduciary, any shares of the capital stock, and other securities or obligations, of the trust company so acting, and of any parent company or affiliated company of such trust company, which stock, securities and obligations have been transferred to or deposited with such fiduciary by the creator or creators of such fiduciary account or other donors or grantors, or received by it in exchange for, or as dividends upon, or purchased by the exercise of subscription rights, including rights to purchase fractional shares, in respect of, any other stock, securities or obligations so transferred to or deposited with it, or which have been purchased by such fiduciary pursuant to a requirement of the instrument or order governing such account or pursuant to the direction of such person or persons other than the trust company having power to direct such fiduciary with respect to such purchases; but except as herein provided, including the exercise of subscription rights, no such trust company shall purchase as an investment for any fiduciary account, in the exercise of its own discretion, any stock or other securities or obligations, other than deposit accounts, savings certificates or certificates of deposits, issued by such trust company, or its parent or affiliated companies. This subsection shall not be construed to prohibit a trust company, in the exercise of its own discretion, from purchasing as an investment, for any fiduciary account, securities or obligations of any state or political subdivision thereof which meet investment standards which shall be established by the director of the division of finance, even though such obligations are underwritten by such trust company or its parent or affiliated companies.

6. The court or officer may make orders respecting the trusts and require any trust company to render all accounts which the court or officer might lawfully require if the personal representative, guardian, trustee, receiver, depository or the trust company acting in any other fiduciary capacity, were a natural person.

7. Upon the appointment of a trust company to any fiduciary office, no official oath shall be required.

8. Property or securities received or held by a trust company in any fiduciary capacity shall be a special deposit in the trust company, and the accounts thereof shall be kept separate from each other and separate from the company's individual business. The property or securities held in trust shall not be mingled with the investments of the capital stock or other property belonging to the trust company or be liable for the debts or obligations thereof. For the purpose of this section, the corporation shall have a trust department, in which all business authorized by subsection 2 of section 362.105 is kept separate and distinct from its general business.

9. The accounts, securities and all records of any trust company relating to a trust committed to it shall be open for the inspection of all persons interested in the trust.

10. When any trust company organized pursuant to the laws of this state shall have been appointed personal representative of the estate of any deceased person, or guardian, trustee, receiver, assignee, or in any other fiduciary capacity, in the manner provided by law for appointment to any such office, and if the trust company has heretofore merged or consolidated with or shall hereafter merge or consolidate with any other trust company organized pursuant to the laws of this state, then, at the option of the first mentioned company, and upon the filing by

it, with the court having jurisdiction of the estate being administered, of a certificate of the merger or consolidation, together with a statement that the other trust company is to thereafter administer the estate held by it and an acceptance by the latter trust company of the trust to be administered, the certificate, statement and acceptance to be executed by the president or vice president of the respective companies and to have affixed thereto the corporate seals of the respective companies, attested by the secretary thereof, and further upon the approval of the court and the giving of such bond as may be required, all the rights, privileges, title and interest in and to all property of whatsoever kind, whether real, personal or mixed, and things in action belonging to the trust estate, and every right, privilege or asset of conceivable value or benefit then existing which would inure to the estate under an unmerged or consolidated existence of the first mentioned company, shall be fully and finally and without right of reversion transferred to and vested in the corporation into which it is merged or with which it is consolidated, without further act or deed, and the last mentioned corporation shall have and hold the same in its own right as fully as the same was possessed and held by the corporation from which it was, by operation of the provisions of this section, transferred, and the corporation shall succeed to all the relations, obligations and liabilities, and shall execute and perform all the trusts and obligations devolving upon it, in the same manner as though it had itself assumed the relation or trust.

11. Notwithstanding any other provisions of law to the contrary, a bank, trust company or affiliate thereof, when acting as a trustee, investment advisor, custodian, or otherwise in a fiduciary capacity with respect to the investment and reinvestment of assets may invest and reinvest the assets, subject to the standards contained in section [456.520] **456.8-816, RSMo, and sections 469.900 to 469.913, RSMo**, in the securities of any open-end or closed-end management investment company or investment trust registered pursuant to the federal Investment Company Act of 1940 as amended (15 U.S.C. Sections 80a-1, et seq.) (collectively, "mutual funds"), **or in shares or interests in a partnership or limited liability company or other entity that operates as a privately-offered investment fund**. Such investment and reinvestment of assets may be made notwithstanding that such bank, trust company, or affiliate provides services to the investment company or trust **or privately-offered investment fund** as investment advisor, sponsor, distributor, custodian, transfer agent, registrar, or otherwise, and receives reasonable remuneration for such services. Such bank or trust company or affiliate thereof is entitled to receive fiduciary fees with respect to such assets. For such services the bank or trust company or affiliate thereof shall be entitled only to the normal fiduciary fee but neither a bank, trust company nor affiliate shall be required to reduce or waive its compensation for services provided in connection with the investment and management of assets because the fiduciary invests, reinvests or retains assets in a mutual fund **or privately-offered investment fund**. The provisions of this subsection apply to any trust, advisory, custody or other fiduciary relationship established before or after August 28, 1999, unless the governing instrument refers to this section and provides otherwise.

12. As used in this section, the term "trust company" applies to any state or national bank or trust company qualified to act as fiduciary in this state.

456.8-802. DUTY OF LOYALTY. — 1. A trustee shall administer the trust solely in the interests of the beneficiaries.

2. Subject to the rights of persons dealing with or assisting the trustee as provided in section 456.10-1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

- (1) the transaction was authorized by the terms of the trust;
- (2) the transaction was approved by the court;
- (3) the beneficiary did not commence a judicial proceeding within the time allowed by section 456.10-1005;

(4) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section 456.10-1009; or

(5) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

3. A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

- (1) the trustee's spouse;
- (2) the trustee's descendants, siblings, parents, or their spouses;
- (3) an agent or attorney of the trustee; or

(4) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

4. A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

5. A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

6. The following transactions are not presumed to be affected by a conflict between the trustee's personal and fiduciary interest provided that any investment made pursuant to the transaction complies with the Missouri prudent investor act.

(1) An investment by a trustee in securities of an investment company or investment trust, **or in shares or interests in a partnership or limited liability company or other entity that operates as a privately-offered investment fund**, to which the trustee, or its affiliate, provides services in a capacity other than as trustee.

(2) the placing of securities transactions by a trustee through a securities broker that is a part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee.

(3) In addition to the trustee's fees charged to the trust, the trustee, its affiliate, or associated entity may be compensated for any transaction or provision of services described in this subsection 6 or in subdivision (4), (5), or (6) of subsection 8 of this section; provided, however, that with respect to any investment in securities of an investment company or investment trust, **or in shares or interests in a partnership or limited liability company or other entity that operates as a privately-offered investment fund**, to which the trustee or its affiliate provides investment advisory or investment management services or any services described in subdivision (5) of subsection 8 of this section, the trustee shall at least annually notify the persons entitled under section 456.8-813 to receive a copy of the trustee's annual report of the rate or method by which the compensation was determined.

7. In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

8. The following transactions, if fair to the beneficiaries, are not presumed to be affected by a conflict between personal and fiduciary interests and are not precluded by this section:

- (1) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;
- (2) payment of reasonable compensation to the trustee;
- (3) a transaction between a trust and another trust, decedent's estate, or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;
- (4) a deposit of trust money in a financial institution operated by the trustee or an affiliate;

(5) a delegation and any transaction made pursuant to the delegation from a trustee to an agent that is affiliated or associated with the trustee, provided that notice of any compensation paid pursuant to the delegation is given as provided in subdivision (3) of subsection 6 of this section; or

(6) any loan from the trustee or its affiliate.

9. The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

456.8-816. SPECIFIC POWERS OF TRUSTEE. — Without limiting the authority conferred by section 456.8-815, a trustee may:

(1) collect trust property and accept or reject additions to the trust property from a settlor or any other person;

(2) acquire or sell property in divided or undivided interests, for cash or on credit, at public or private sale;

(3) exchange, partition, or otherwise change the character of trust property;

(4) deposit trust money in an account in a financial institution;

(5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

(6) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;

(7) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:

(a) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(b) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(c) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

(d) deposit the securities with a depository or other financial institution;

(8) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;

(9) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

(10) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;

(11) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;

(12) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;

(13) with respect to possible liability for violation of environmental law:

(a) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(b) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(c) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(d) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

(e) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;

(14) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(15) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;

(16) exercise elections with respect to federal, state, and local taxes;

(17) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

(18) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(19) pledge trust property to guarantee or secure loans made by others to a beneficiary;

(20) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(a) paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;

(b) paying it to the beneficiary's custodian under the Missouri transfers to minors law under sections 404.005 to 404.094, RSMo, or a personal custodian under sections 404.400 to 404.650, RSMo, and, for that purpose, creating a custodianship or custodial trust;

(c) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(d) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(23) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(25) to engage and compensate attorneys, accountants, investment advisors, or other agents, and to delegate to them trustee's duties and functions in accordance with the provisions of section 456.8-807;

(26) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;

(27) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

(28) to invest and reinvest trust assets in accordance with sections 469.900 to 469.913, RSMo; including investing and reinvesting **trust assets in United States government obligations, either directly or in the form of securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered pursuant to the Investment Company Act of 1940, as amended, including but not limited to United States government obligations and repurchase agreements fully collateralized by such obligations, notwithstanding that the governing instrument or order directs, requires, authorizes, or restricts investment in or to United States government obligations or repurchase agreements fully collateralized by such obligations, and** in securities or obligations of any state or its political subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which meet the standards established by the division of finance pursuant to subsection 5 of section 362.550, RSMo.

Approved June 25, 2008

HB 1689 [SCS HB 1689]

Transfers the Governor's Council on Disability from the Department of Labor and Industrial Relations to the Office of Administration and provides legislators with a key to access the Capitol dome

AN ACT to repeal sections 286.200, 286.205, and 286.210, RSMo, and to enact in lieu thereof four new sections relating to the office of administration.

Vetoed July 10, 2008

SB 873 [SCS SB 873]

Provides for a voting student curator on the University of Missouri board of curators if Missouri loses a congressional district based on the 2010 census

AN ACT to repeal sections 172.030, 172.035, 172.040, and 172.060, RSMo, and to enact in lieu thereof four new sections relating to student curators.

Vetoed July 9, 2008

SB 1061 [SB 1061]

Requires county coroners and their assistants to register with the Missouri Coroners' and Medical Examiners' Association

AN ACT to amend chapter 58, RSMo, by adding thereto one new section relating to the registration of coroners and their assistants.

Vetoed July 10, 2008

SB 1190 [SB 1190]

Authorizes the division of professional registration to reduce licensure fees by emergency rule under certain circumstances

AN ACT to repeal section 620.010, RSMo, and to enact in lieu thereof one new section relating to the division of professional registration.

Vetoed July 10, 2008

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**PROPOSED AMENDMENT TO THE
CONSTITUTION OF MISSOURI**

SJR 45 [SJR 45]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 37(h) of article III of the Constitution of Missouri, and adopting one new section in lieu thereof relating to storm water control assistance.

SECTION

- A. Enacting clause.
- 37(h). Storm water control plans, studies and projects — bonds authorized, procedure — storm water control bond and interest fund created, administration (includes St. Louis City and counties of the first classification)..

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2008, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 37(h), article III, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 37(h), to read as follows:

SECTION 37(h). STORM WATER CONTROL PLANS, STUDIES AND PROJECTS — BONDS AUTHORIZED, PROCEDURE — STORM WATER CONTROL BOND AND INTEREST FUND CREATED, ADMINISTRATION (INCLUDES ST. LOUIS CITY AND COUNTIES OF THE FIRST CLASSIFICATION). — 1. In addition to any other indebtedness authorized under this constitution or the laws of this state, the general assembly may authorize the contracting of an indebtedness on behalf of the state of Missouri and the issuance of bonds or other evidences of indebtedness not exceeding in the aggregate the sum of two hundred million dollars for the purpose of providing funds for use in this state for stormwater control plans, studies and projects in counties of the first classification and in any city not within a county, through grants and loans administered by the clean water commission and the department of natural resources pursuant to the procedures in chapter 644, RSMo. The bonds shall be issued by the state board of fund commissioners from time to time and in such amounts as may be necessary to carry on the program of the clean water commission and the department of natural resources as determined by the general assembly for the financing and constructing of these plans, studies and projects by any municipality, **public** sewer district, sewer district established pursuant to article VI,

section 30(a) of the Missouri Constitution, **public** water district, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification. The board of fund commissioners shall offer such bonds at public sale, and shall provide such method as it may deem necessary for the advertisement of the sale of each issue of bonds before such bonds are sold. The proceeds of the sale or sales of any bonds issued hereunder shall be paid into the state treasury and be credited to a fund to be designated the "Stormwater Control Fund". The bonds shall be retired serially and by installments within a period not to exceed twenty-five years from their date of issue and shall bear interest at a rate or rates not exceeding the rate permitted by law. The proceeds of the sale of the bonds herein authorized shall be expended for the purposes for which the bonds are hereinabove authorized to be issued.

2. The bonds and the interest thereon shall be paid out of the "Stormwater Control Bond and Interest Fund", which is hereby created, and the payment of such bonds and the interest thereon shall be secured by a pledge of the full faith, credit and resources of the state of Missouri. Upon the issuance of such bonds, or any portion thereof, the state board of fund commissioners shall notify the commissioner of administration of the amount of money required, in the remaining portion of the fiscal year during which such bonds shall have been issued, for the payment of interest on the bonds, and of the amount of money required for the payment of interest on the bonds in the next succeeding fiscal year, and to pay such bonds as they mature. Thereafter, within thirty days after the beginning of each fiscal year, the state board of fund commissioners shall notify the commissioner of administration of the amount of money required for the payment of interest on the bonds in the next succeeding fiscal year and to pay such bonds maturing in the next succeeding fiscal year.

3. It shall be the duty of the commissioner of administration to transfer at least monthly, from the state general revenue fund, after deducting therefrom the proportionate part thereof appropriated for the support of the free public schools, and to credit to the stormwater control bond and interest fund such sum as may be necessary from time to time until there shall have been transferred to such fund the amount so certified to the commissioner of administration by the state board of fund commissioners, as provided in this section.

4. If at any time after the issuance of any of the bonds, it shall become apparent to the commissioner of administration that the funds available in the state general revenue fund will not be sufficient for the payment of the sinking fund and interest on outstanding obligations of the state and for the purpose of public education and the principal and interest maturing and accruing on the bonds during the next succeeding fiscal year, a direct tax shall be levied upon all taxable tangible property in the state for the payment of such bonds and the interest that will accrue thereon. In such event, it shall be the duty of the commissioner of administration annually, on or before the first day of July, to determine the rate of taxation necessary to be levied upon all taxable tangible property within the state to raise the amount of money needed to pay the principal of and interest on such bonds maturing and accruing in the next succeeding fiscal year, taking into consideration available funds, delinquencies and costs of collection. The commissioner of administration shall annually certify the rate of taxation so determined to the county clerk of each county and to the comptroller or other officer in the city of St. Louis whose duty it shall be to make up and certify the tax books wherein are extended the ad valorem state taxes. It shall be the duty of such clerks and the comptroller or other proper officer in the city of St. Louis to extend upon the tax books the taxes to be collected and to certify the same to the collectors of the revenue of their respective counties and of the city of St. Louis, who shall collect such taxes at the same time and in the same manner and by the means as are now or may hereafter be provided by law for the collection of state and county taxes, and to pay the same into the state treasury for the credit of the stormwater control bond and interest fund.

5. All funds paid into the stormwater control bond and interest fund shall be and stand appropriated without legislative action to the payment of principal and interest of the bonds, there to remain until paid out in discharge of the principal of such bonds and the interest

accruing thereon, and no part of such fund shall be used for any other purpose so long as any of the principal of such bonds and the interest thereon shall be unpaid. The general assembly may appropriate in any year such amount from the stormwater control fund as it determines to be necessary for the purposes specified in this section[; provided that such appropriations may not exceed twenty million dollars, in the aggregate, per fiscal year. Of those grant and loan funds appropriated pursuant to this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans]. Grants [shall be fifty percent of the cost of the plan, study or project and] may be combined with loans such as those provided by the commission or the department. **Funding for grants [and] or loans from the stormwater control fund shall be [dispersed] initially offered** to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the population of the recipient county or city bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census. Any city with a population of at least twenty-five thousand inhabitants located in such counties of the first classification shall [receive] **initially be offered** such funds [directly] in an amount equal to the percentage ratio that the city's population bears to the total population of the county. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution, such district shall receive the grants or loans directly. **Any funds not accepted in the initial offers of funding under this subsection shall be subsequently offered to recipients of the initial offer of funding who continue to have eligible projects until all funds have been accepted. Any such subsequent funding offer shall be equal to the percentage ratio that the population of the funding recipient bears to the total population of all other recipients with eligible projects.**

6. Repayments of storm water loans and any interest payments on such loans shall be deposited in a fund as provided by law for the purposes of financing and constructing storm water control plans, studies, and projects. Any unexpended balance in such fund shall not be subject to biennial transfer under the provisions of section 33.080, RSMo, and all interest earned shall accrue to the fund.

7. The general assembly may enact such laws as may be necessary to carry out the provisions of this section.

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**PROPOSED AMENDMENT TO THE
CONSTITUTION OF MISSOURI**

SJR 45 [SJR 45]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 37(h) of article III of the Constitution of Missouri, and adopting one new section in lieu thereof relating to storm water control assistance.

SECTION

- A. Enacting clause.
- 37(h). Storm water control plans, studies and projects — bonds authorized, procedure — storm water control bond and interest fund created, administration (includes St. Louis City and counties of the first classification)..

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2008, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article III of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 37(h), article III, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 37(h), to read as follows:

SECTION 37(h). STORM WATER CONTROL PLANS, STUDIES AND PROJECTS — BONDS AUTHORIZED, PROCEDURE — STORM WATER CONTROL BOND AND INTEREST FUND CREATED, ADMINISTRATION (INCLUDES ST. LOUIS CITY AND COUNTIES OF THE FIRST CLASSIFICATION). — 1. In addition to any other indebtedness authorized under this constitution or the laws of this state, the general assembly may authorize the contracting of an indebtedness on behalf of the state of Missouri and the issuance of bonds or other evidences of indebtedness not exceeding in the aggregate the sum of two hundred million dollars for the purpose of providing funds for use in this state for stormwater control plans, studies and projects in counties of the first classification and in any city not within a county, through grants and loans administered by the clean water commission and the department of natural resources pursuant to the procedures in chapter 644, RSMo. The bonds shall be issued by the state board of fund commissioners from time to time and in such amounts as may be necessary to carry on the program of the clean water commission and the department of natural resources as determined by the general assembly for the financing and constructing of these plans, studies and projects by any municipality, **public** sewer district, sewer district established pursuant to article VI,

section 30(a) of the Missouri Constitution, **public** water district, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification. The board of fund commissioners shall offer such bonds at public sale, and shall provide such method as it may deem necessary for the advertisement of the sale of each issue of bonds before such bonds are sold. The proceeds of the sale or sales of any bonds issued hereunder shall be paid into the state treasury and be credited to a fund to be designated the "Stormwater Control Fund". The bonds shall be retired serially and by installments within a period not to exceed twenty-five years from their date of issue and shall bear interest at a rate or rates not exceeding the rate permitted by law. The proceeds of the sale of the bonds herein authorized shall be expended for the purposes for which the bonds are hereinabove authorized to be issued.

2. The bonds and the interest thereon shall be paid out of the "Stormwater Control Bond and Interest Fund", which is hereby created, and the payment of such bonds and the interest thereon shall be secured by a pledge of the full faith, credit and resources of the state of Missouri. Upon the issuance of such bonds, or any portion thereof, the state board of fund commissioners shall notify the commissioner of administration of the amount of money required, in the remaining portion of the fiscal year during which such bonds shall have been issued, for the payment of interest on the bonds, and of the amount of money required for the payment of interest on the bonds in the next succeeding fiscal year, and to pay such bonds as they mature. Thereafter, within thirty days after the beginning of each fiscal year, the state board of fund commissioners shall notify the commissioner of administration of the amount of money required for the payment of interest on the bonds in the next succeeding fiscal year and to pay such bonds maturing in the next succeeding fiscal year.

3. It shall be the duty of the commissioner of administration to transfer at least monthly, from the state general revenue fund, after deducting therefrom the proportionate part thereof appropriated for the support of the free public schools, and to credit to the stormwater control bond and interest fund such sum as may be necessary from time to time until there shall have been transferred to such fund the amount so certified to the commissioner of administration by the state board of fund commissioners, as provided in this section.

4. If at any time after the issuance of any of the bonds, it shall become apparent to the commissioner of administration that the funds available in the state general revenue fund will not be sufficient for the payment of the sinking fund and interest on outstanding obligations of the state and for the purpose of public education and the principal and interest maturing and accruing on the bonds during the next succeeding fiscal year, a direct tax shall be levied upon all taxable tangible property in the state for the payment of such bonds and the interest that will accrue thereon. In such event, it shall be the duty of the commissioner of administration annually, on or before the first day of July, to determine the rate of taxation necessary to be levied upon all taxable tangible property within the state to raise the amount of money needed to pay the principal of and interest on such bonds maturing and accruing in the next succeeding fiscal year, taking into consideration available funds, delinquencies and costs of collection. The commissioner of administration shall annually certify the rate of taxation so determined to the county clerk of each county and to the comptroller or other officer in the city of St. Louis whose duty it shall be to make up and certify the tax books wherein are extended the ad valorem state taxes. It shall be the duty of such clerks and the comptroller or other proper officer in the city of St. Louis to extend upon the tax books the taxes to be collected and to certify the same to the collectors of the revenue of their respective counties and of the city of St. Louis, who shall collect such taxes at the same time and in the same manner and by the means as are now or may hereafter be provided by law for the collection of state and county taxes, and to pay the same into the state treasury for the credit of the stormwater control bond and interest fund.

5. All funds paid into the stormwater control bond and interest fund shall be and stand appropriated without legislative action to the payment of principal and interest of the bonds, there to remain until paid out in discharge of the principal of such bonds and the interest

accruing thereon, and no part of such fund shall be used for any other purpose so long as any of the principal of such bonds and the interest thereon shall be unpaid. The general assembly may appropriate in any year such amount from the stormwater control fund as it determines to be necessary for the purposes specified in this section[; provided that such appropriations may not exceed twenty million dollars, in the aggregate, per fiscal year. Of those grant and loan funds appropriated pursuant to this section, fifty percent shall be allocated to grants and fifty percent shall be allocated to loans]. Grants [shall be fifty percent of the cost of the plan, study or project and] may be combined with loans such as those provided by the commission or the department. **Funding for grants [and] or loans from the stormwater control fund shall be [dispersed] initially offered** to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the population of the recipient county or city bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census. Any city with a population of at least twenty-five thousand inhabitants located in such counties of the first classification shall [receive] **initially be offered** such funds [directly] in an amount equal to the percentage ratio that the city's population bears to the total population of the county. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution, such district shall receive the grants or loans directly. **Any funds not accepted in the initial offers of funding under this subsection shall be subsequently offered to recipients of the initial offer of funding who continue to have eligible projects until all funds have been accepted. Any such subsequent funding offer shall be equal to the percentage ratio that the population of the funding recipient bears to the total population of all other recipients with eligible projects.**

6. Repayments of storm water loans and any interest payments on such loans shall be deposited in a fund as provided by law for the purposes of financing and constructing storm water control plans, studies, and projects. Any unexpended balance in such fund shall not be subject to biennial transfer under the provisions of section 33.080, RSMo, and all interest earned shall accrue to the fund.

7. The general assembly may enact such laws as may be necessary to carry out the provisions of this section.

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HOUSE CONCURRENT RESOLUTION NO. 1 [HCR 1]

BE IT RESOLVED, by the House of Representatives of the Ninety-fourth General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 7:00 p.m., Tuesday, January 15, 2008, to receive a message from His Excellency, the Honorable Matt Blunt, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-fourth General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 2 [HCR 2]

BE IT RESOLVED, by the House of Representatives of the Ninety-fourth General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Tuesday, February 5, 2008, to receive a message from Her Honor Chief Justice Laura Denvir Stith, the Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform Her Honor that the House of Representatives and the Senate of the Ninety-fourth General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that Her Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 3 [HCR 3]

BE IT RESOLVED by the members of the House of Representatives of the Ninety-fourth General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, February 6, 2008, to receive a message from Pete K. Rahn, Director of the Missouri Department of Transportation; and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 30 [SS SCS HCR 30]

WHEREAS, competition in the voice communications industry is developing rapidly and is widespread in the State of Missouri; and

WHEREAS, Missouri law governing the telecommunications industry must evolve to meet the needs of Missouri consumers; and

WHEREAS, consumer choice in voice communications is available through the traditional wireline, wireless, cable, and interconnected voice over Internet protocol industries; and

WHEREAS, the methodology by which carriers are compensated for the use of their network is, by its nature, complex, detailed, and inter-related to numerous other economic forces; and

WHEREAS, the need to make equitable changes in the inter-carrier compensation regime will require a comprehensive, holistic, and deliberate approach to reform; and

WHEREAS, due to the complex nature of inter-carrier compensation, comprehensive study and discussion is required; and

WHEREAS, pricing of voice telecommunications services is important to promote competition for the long term benefit of consumers; and

WHEREAS, a forum for review and discussion between these very competitive industries will aid in addressing the concerns of both the industry and consumers:

NOW THEREFORE BE IT RESOLVED by the members of the House of Representatives of the Ninety-fourth General Assembly, Second Regular Session, the Senate concurring therein, that to ensure that thoughtful and necessary changes to the regulation of voice communications in Missouri and the need to protect Missouri consumers and provide them with more communications choices, the General Assembly must endeavor to comprehensively study further the matters detailed herein; and

BE IT FURTHER RESOLVED that the members of the House of Representatives of the Ninety-fourth General Assembly, Second Regular Session, the Senate concurring therein, hereby establish a Joint Interim Committee on Voice Communications Regulation to be composed of ten members, five of which shall be from the House of Representatives with three appointed by the Speaker of the House and two appointed by the Minority Floor Leader of the House, and five members shall be from the Senate with three appointed by the President Pro Tem of the Senate and two appointed by the Minority Floor Leader of the Senate; and

BE IT FURTHER RESOLVED that the Joint Interim Committee is authorized to function during the legislative interim between the Second Regular Session of the Ninety-fourth General Assembly through January 15, 2009, of the First Regular Session of the Ninety-fifth General Assembly to study the following:

(1) The need to make changes to the inter-carrier compensation system wherein voice communications providers exchange traffic on other provider's networks; and

(2) The issue of whether market-based pricing exists in the voice telecommunications industry, and any recommended action to be taken by the General Assembly, if any; and

(3) Such other matters as the Joint Interim Committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues; and

BE IT FURTHER RESOLVED that the Joint Interim Committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the General Assembly by January 15, 2009; and

BE IT FURTHER RESOLVED that the Joint Interim Committee may solicit input and information necessary to fulfill its obligations, including but not limited to soliciting input and information from any state department or agency the Joint Interim Committee deems relevant, consumer advocates, political subdivisions of this State, and the general public; and

BE IT FURTHER RESOLVED that the staffs of House Research, the Joint Committee on Legislative Research, and Senate Research shall provide such legal, research, clerical, technical, and bill drafting services as the Joint Interim Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the Joint Interim Committee, its members, and any staff assigned to the Joint Interim Committee incurred by the Joint Interim Committee shall be paid by the Joint Contingent Fund.

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SENATE CONCURRENT RESOLUTION NO. 29 [SCR 29]

WHEREAS, the United States Department of Agriculture's National Agricultural Statistics Service collects and publishes information on the prices and inventories of rice; and

WHEREAS, this information is used for estimations of farm income and determinations of government program payments to farmers; and

WHEREAS, it is essential to the rice industry that the estimations of farm income and determinations of government program payments more accurately reflect the current market prices and stocks of rice:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby request that the United States Department of Agriculture's National Agricultural Statistics Service add the dates of June 1 and September 1 as additional reporting dates to the "Agricultural Statistics Board" calendar to more accurately reflect prices and stocks; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for the United States Secretary of Agriculture, the United States Department of Agriculture's National Agricultural Statistics Service, and to each member of Missouri's Congressional delegation.

SENATE CONCURRENT RESOLUTION NO. 31 [SCR 31]

WHEREAS, Chamois, Missouri, is a community located along the Missouri River in northern Osage County which has no means to cross the river except by way of bridges located approximately 45 miles to the west and 30 miles to the east; and

WHEREAS, the people who live in Chamois incur increasingly high costs using present routes in order to reach destinations on the north side of the Missouri River for employment, recreation, and business; and

WHEREAS, people who live on the north side of the Missouri River are equally restricted from accessing destinations on the south side of the Missouri River, respectively; and

WHEREAS, locating a ferryboat on the Missouri River at Chamois would allow residents on both sides to cross the River, reducing travel times and travel costs, provide a safer route, and conserve fuel; and

WHEREAS, locating a ferryboat at Chamois would establish the only reported ferry on the Missouri River and would thereby promote Journal of the Senate 268 tourism on both sides of the River by attracting more visitors to the area and creating a driving destination for tourists visiting such communities as Hermann, Fulton, and Jefferson City; and

WHEREAS, locating a ferryboat at Chamois would likewise give residents on the south side of the River access to the Katy Trail located on the north side of the River; and

WHEREAS, numerous organizations have endorsed the ferryboat at Chamois, including but not limited to the Hermann Area Chamber of Commerce, the Fulton Area Chamber of Commerce, the county commissions for Osage and Callaway counties, the City of Mokane, the City of Chamois, and the Missouri Division of Tourism; and

WHEREAS, the promoters of the ferryboat at Chamois have requested federal and state funding for the project:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby express support for the Chamois ferryboat and urge the Missouri Department of Economic Development and the Missouri Department of Transportation, along with other state agencies and the Missouri Congressional Delegation, to assist in securing moneys for locating and construction of the ferryboat; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for Governor Matt Blunt, Gregory A. Steinhoff, the Director of the Department of Economic Development, Peter Rahn, the Director of the Missouri Department of Transportation, and each member of the Missouri Congressional Delegation.

SENATE CONCURRENT RESOLUTION NO. 39 [SCS SCR 39]

WHEREAS, public and teaching hospitals in Missouri serve as an integral part of the safety net system in this state. Major teaching hospitals account for approximately twenty-five percent of all Medicaid discharges; and

WHEREAS, currently there are thirty-three teaching hospitals and mental health centers in Missouri receiving graduate medical education funds. Such funding is used to train cardiologists, oncologists, neurologists, pediatricians, and numerous other types of physicians; and

WHEREAS, such hospitals are recognized for offering the most advanced and state-of-the-art services. Therefore, such training for the future health care workforce is an important and critical policy objective for this state; and

WHEREAS, such public and teaching hospitals are concerned about proposed regulations from the federal Centers for Medicare and Medicaid Services asserting that the federal Medicaid program lacks statutory authority to match payments for direct graduate medical education and activities. Such a rule change represents a significant reversal of long-standing Medicaid policy; and

WHEREAS, the State of Missouri will annually lose between 65 and 70 million dollars in lost federal funding starting May 25, 2008, should the rule take effect; and

WHEREAS, Truman Medical Center, in particular, is concerned that the proposed regulations would narrow the definition of "public" so that many current public hospitals, including Truman Medical Center, would no longer qualify as public for purposes of providing the local match required to obtain federal Medicaid funds. Initial estimates of the impact to Truman Medical Center are that it would exceed \$37 million in lost Medicaid funding; and

WHEREAS, the United States House of Representatives is considering extending the proposed rule by one year until May 25, 2009, prohibiting implementation of the proposed rule on Medicaid match for direct graduate medical education:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby request that the Missouri Congressional delegation ask the Centers

for Medicare and Medicaid Services to withdraw this rule or delay implementation until May 25, 2009; and Journal of the Senate 732

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution to each member of Missouri's Congressional delegation and to the administrator of the Centers for Medicare and Medicaid Services.

SENATE CONCURRENT RESOLUTION NO. 40 [SCR 40]

WHEREAS, Chamois, Missouri, is a community located along the Missouri River in northern Osage County which has no means to cross the river except by way of bridges located approximately 45 miles to the west and 30 miles to the east; and

WHEREAS, the people who live in Chamois incur increasingly high costs using present routes in order to reach destinations on the north side of the Missouri River for employment, recreation, and business; and

WHEREAS, people who live on the north side of the Missouri River are equally restricted from accessing destinations on the south side of the Missouri River, respectively; and

WHEREAS, locating a ferryboat on the Missouri River at Chamois would allow residents on both sides to cross the River, reducing travel times and travel costs, provide a safer route, and conserve fuel; and

WHEREAS, locating a ferryboat at Chamois would establish the only reported ferry on the Missouri River and would thereby promote Journal of the Senate 268 tourism on both sides of the River by attracting more visitors to the area and creating a driving destination for tourists visiting such communities as Hermann, Fulton, and Jefferson City; and

WHEREAS, locating a ferryboat at Chamois would likewise give residents on the south side of the River access to the Katy Trail located on the north side of the River; and

WHEREAS, numerous organizations have endorsed the ferryboat at Chamois, including but not limited to the Hermann Area Chamber of Commerce, the Fulton Area Chamber of Commerce, the county commissions for Osage and Callaway counties, the City of Mokane, the City of Chamois, and the Missouri Division of Tourism; and

WHEREAS, the promoters of the ferryboat at Chamois have requested federal and state funding for the project:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Fourth General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby express support for the Chamois ferryboat and urge the Missouri Department of Economic Development and the Missouri Department of Transportation, along with other state agencies and the Missouri Congressional Delegation, to assist in securing moneys for locating and construction of the ferryboat; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for Governor Matt Blunt, Gregory A. Steinhoff, the Director of the Department of Economic Development, Peter Rahn, the Director of the Missouri Department of Transportation, and each member of the Missouri Congressional Delegation.

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ADMINISTRATION, OFFICE OF

- SB 1140 Modifies the law relating to the Office of Administration
- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
- HB 1313 Requires the state and political subdivisions to favor service disabled veteran businesses when letting contracts
- HB 1689 Transfers the Governor's Council on Disability from the Department of Labor and Industrial Relations to the Office of Administration

ADMINISTRATIVE LAW

- HB 1469 Modifies the law regarding certain environmental appeals transferred to the Administrative Hearing Commission

ADMINISTRATIVE RULES

- HB 1469 Modifies the law regarding certain environmental appeals transferred to the Administrative Hearing Commission

AGRICULTURE AND ANIMALS

- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
- HB 1354 Exempts self-propelled sprayers that are used for spraying chemicals or spreading fertilizer from complying with titling, registration and license plate display laws
- HB 2034 Modifies various provisions relating to weapons

AGRICULTURE DEPARTMENT

- SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment
- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs

AIRCRAFT AND AIRPORTS

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
- SB 1073 Creates a state and local sales and use tax exemption for defense articles sold to foreign governments
- HB 1888 Allows a municipality to annex land within the airport zone of the City of Springfield if it agrees to enforce Springfield's zoning ordinance

ALCOHOL

- SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses

AMBULANCES AND AMBULANCE DISTRICTS

- SB 1039 Modifies minimum volunteer ambulance staffing requirements and requires Christian County to appoint an emergency services board upon voter approval of a county sales tax for central dispatching of emergency services
- SB 1044 Modifies provisions regarding minimum ambulance staffing for ambulances staffed with volunteers

ANNEXATION

- HB 1888 Allows a municipality to annex land within the airport zone of the City of Springfield if it agrees to enforce Springfield's zoning ordinance

APPROPRIATIONS

- HB 2001 Appropriates money to the Board of Fund Commissioners
- HB 2002 Appropriates money for the expenses, grants, refunds, and distributions of the State Board of Education and Department of Elementary and Secondary Education
- HB 2003 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Higher Education
- HB 2004 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Revenue and Department of Transportation
- HB 2005 Appropriates money for the expenses, grants, refunds, and distributions of the Office of Administration, Department of Transportation, and Department of Public Safety
- HB 2006 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, and Department of Conservation
- HB 2007 Appropriates money for the expenses and distributions of the Departments of Economic Development; Insurance, Financial Institutions and Professional Registration; and Labor and Industrial
- HB 2008 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Public Safety
- HB 2009 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Corrections
- HB 2010 Appropriates money for the expenses, grants, refunds, and distributions of the Department of Mental Health, Board of Public Buildings, and Department of Health and Senior Services
- HB 2011 Appropriates money for the expenses, grants, and distributions of the Department of Social Services
- HB 2012 Appropriates money for the expenses, grants, refunds, and distributions of statewide elected officials, the Judiciary, Office of the State Public Defender, and General Assembly
- HB 2013 Appropriates money for real property leases and related services
- HB 2014 Appropriates money for supplemental purposes for several departments, offices of state government, for purchase of equipment, payment of various claims for refunds, for persons, firms, and corporations
- HB 2015 Appropriates money for supplemental purposes for the Department of Social Services Utilicare program
- HB 2016 Appropriates money for capital improvement and other purposes for several departments of state government
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- HB 2019 Appropriates money for supplemental purposes for the University of Missouri, for the purchase of equipment, planning, expenses for capital improvements, from funds designated for period ending 5-30-08
- HB 2020 Appropriates money for supplemental purposes for the several departments and offices of state government, for the purchase of equipment, planning, expenses for the fiscal period ending 5-30-08
- HB 2021 Appropriates money for supplemental purposes for the Department of Conservation
- HB 2022 Appropriates money for supplemental purposes for the Department of Public Safety
- HB 2023 Appropriates money for planning, expenses, and for capital improvements
- HB 2036 Repeals the formula distribution requirements for additional funding for certain services for the elderly

ATTORNEY GENERAL, STATE

- SB 999 Allows the Attorney General to bring an action for unlawful merchandising practices when the name of a financial institution is deceptively used
- SB 1034 Modifies record-keeping requirements for purchasers of scrap metal and creates penalties for unlawful purchases of certain scrap metals
- HB 1970 Limits civil actions against certain motor vehicle dealers

ATTORNEYS

- HB 1570 Adds services of guardian ad litem to the priority list of services for which moneys in the family services and justice fund shall be spent

AUDITOR, STATE

- SB 944 Modifies the fees the Auditor receives for registering bonds
- SB 1066 Modifies provisions relating to elementary and secondary education

BANKS AND FINANCIAL INSTITUTIONS

- SB 951 Modifies the law relating to emergency response within financial institutions
- SB 999 Allows the Attorney General to bring an action for unlawful merchandising practices when the name of a financial institution is deceptively used
- SB 1235 Modifies provisions related to a trustee's powers under the Missouri Uniform Trust Code
- HB 1608 Authorizes counties to preserve electronic images of original cancelled checks instead of the actual check
- HB 2188 Creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

- SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
- SB 788 Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration by type III transfer
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- SB 850 Requires the board of optometry to give notice of its meetings
- SB 873 Provides for a voting student curator on the University of Missouri board of curators if Missouri loses a congressional district based on the 2010 census
- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
- SB 1066 Modifies provisions relating to elementary and secondary education
- SB 1170 Creates the Rebuild Missouri Schools Program and allows education boards to enter into lease-purchase agreements with twenty-five successive options
- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
- HB 1450 Modifies the law relating to terrorism
- HB 1469 Modifies the law regarding certain environmental appeals transferred to the Administrative Hearing Commission
- HB 1678 Modifies various laws relating to members of the military and their families
- HB 1689 Transfers the Governor's Council on Disability from the Department of Labor and Industrial Relations to the Office of Administration
- HB 1881 Changes the length of the term of office for the initially appointed directors of public water supply districts
- HB 2065 Modifies the law relating to licensed psychologists
- HB 2191 Modifies provisions relating to higher education scholarships

BOATS AND WATERCRAFT

- SB 1073 Creates a state and local sales and use tax exemption for defense articles sold to foreign governments
- HB 1715 Modifies various provisions relating to the Water Patrol and watercraft regulations

BONDS - GENERAL OBLIGATION AND REVENUE

- SJR 45 Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control
- SB 944 Modifies the fees the Auditor receives for registering bonds
- SB 1040 Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control

BUSINESS AND COMMERCE

- SB 718 Modifies provisions of certain tax credit programs administered by the Department of Economic Development
- SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses
- SB 1073 Creates a state and local sales and use tax exemption for defense articles sold to foreign governments
- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
- HB 1313 Requires the state and political subdivisions to favor service disabled veteran businesses when letting contracts
- HB 2393 Modifies provisions of the enhanced enterprise tax benefit program
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CAMPAIGN FINANCE

SB 1038 Repeals campaign contribution limits and modifies reporting requirements

CAPITAL IMPROVEMENTS

HB 1779 Modifies laws regarding underground facilities and telecommunications services

CHILDREN AND MINORS

SB 714 Modifies various provisions relating to sexual offenses

SB 818 Modifies various provisions relating to stalking and harassment

HB 1550 Modifies provisions relating to courts

HB 1640 Provides for exceptions to the requirement for issuing a new birth certificate following adoption

HB 1678 Modifies various laws relating to members of the military and their families

HB 1946 Modifies provisions relating to adoption subsidies and youth development programs

CIRCUIT CLERK

SB 956 Modifies provisions relating to public water supply districts

CITIES, TOWNS AND VILLAGES

SB 720 Modifies provisions relating to utilities

SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses

SB 956 Modifies provisions relating to public water supply districts

SB 1131 Excludes tax revenues, derived from certain transportation sales taxes imposed by the City of Kansas City, from tax increment finance economic activity taxes used to pay redevelopment costs

HB 1380 Authorizes allocation of property taxes to senior center

HB 1804 Modifies certain provisions relating to home-rule cities and third class cities

HB 1849 Modifies the penalties for certain zoning violations

HB 1881 Changes the length of the term of office for the initially appointed directors of public water supply districts

HB 1888 Allows a municipality to annex land within the airport zone of the City of Springfield if it agrees to enforce Springfield's zoning ordinance

HB 2233 Bars certain individuals from advocating for political appointments

CIVIL RIGHTS

HB 2224 Modifies various provisions relating to law enforcement

COMPACTS

HB 1678 Modifies various laws relating to members of the military and their families

CONSERVATION DEPARTMENT

- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs

CONSTRUCTION AND BUILDING CODES

- HB 1779 Modifies laws regarding underground facilities and telecommunications services
HB 1849 Modifies the penalties for certain zoning violations

CONSUMER PROTECTION

- SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses
SB 1034 Modifies record-keeping requirements for purchasers of scrap metal and creates penalties for unlawful purchases of certain scrap metals
HB 1384 Modifies certain provisions relating to protection of consumers against fraudulent practices

CONTRACTS AND CONTRACTORS

- SB 1073 Creates a state and local sales and use tax exemption for defense articles sold to foreign governments
HB 1313 Requires the state and political subdivisions to favor service disabled veteran businesses when letting contracts

CORPORATIONS

- SB 1150 Extends the sunset provisions for fees to be credited to the technology trust fund

COUNTIES

- SB 720 Modifies provisions relating to utilities
SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses
SB 896 Modifies the methods in which certain special road districts may form, expand or dissolve within fourth class counties
SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
SB 1033 Prohibits water or sewer line easements from being considered transfers of title of real property to counties and other political subdivisions
SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
HB 1380 Authorizes allocation of property taxes to senior center
HB 1608 Authorizes counties to preserve electronic images of original cancelled checks instead of the actual check
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COUNTY OFFICIALS

- SB 711 Modifies provisions regarding property taxation
SB 1061 Requires county coroners and their assistants to register with the Missouri Coroners' and Medical Examiners' Association
HB 1608 Authorizes counties to preserve electronic images of original cancelled checks instead of the actual check
HB 2233 Bars certain individuals from advocating for political appointments

COURTS

- SB 711 Modifies provisions regarding property taxation
SB 956 Modifies provisions relating to public water supply districts
SB 1016 Provides that a portion of the tort victims' compensation fund shall be transferred to the basic civil legal services fund
HB 1550 Modifies provisions relating to courts
HB 1570 Adds services of guardian ad litem to the priority list of services for which moneys in the family services and justice fund shall be spent
HB 1970 Limits civil actions against certain motor vehicle dealers

COURTS, JUVENILE

- HB 1570 Adds services of guardian ad litem to the priority list of services for which moneys in the family services and justice fund shall be spent

CREDIT UNIONS

- SB 788 Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration by type III transfer

CRIMES AND PUNISHMENT

- SB 714 Modifies various provisions relating to sexual offenses
SB 720 Modifies provisions relating to utilities
SB 733 Requires crime laboratories providing reports or testimony to a state court to be accredited by 2012
SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses
SB 818 Modifies various provisions relating to stalking and harassment
SB 932 Modifies peace officer continuing education requirements regarding racial profiling and creates the "Cyber Crime Investigation Fund" to be used solely for the administration of the cyber crime investigation grant program
SB 1002 Modifies the penalties for certain zoning violations
SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
HB 1384 Modifies certain provisions relating to protection of consumers against fraudulent practices
HB 1849 Modifies the penalties for certain zoning violations
HB 2034 Modifies various provisions relating to weapons
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- HB 2041 Modifies provisions relating to unemployment compensation
HB 2188 Creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime

CRIMINAL PROCEDURE

- SB 714 Modifies various provisions relating to sexual offenses
HB 1384 Modifies certain provisions relating to protection of consumers against fraudulent practices

DISABILITIES

- SB 720 Modifies provisions relating to utilities
SB 980 Modifies provisions regarding supplemental and disability retirement benefits for Kansas City police officers and civilian employees
SB 1081 Modifies provisions regarding quality assurance and safety in the Division of Mental Retardation and Developmental Disabilities Community Programs
HB 1689 Transfers the Governor's Council on Disability from the Department of Labor and Industrial Relations to the Office of Administration
HB 1710 Modifies provisions regarding supplemental and disability retirement for Kansas City police officers and civilian employees
HB 1807 Changes the name of the State Schools for Severely Handicapped Children to Missouri Schools for the Severely Disabled.

DOMESTIC RELATIONS

- HB 1570 Adds services of guardian ad litem to the priority list of services for which moneys in the family services and justice fund shall be spent
HB 1946 Modifies provisions relating to adoption subsidies and youth development programs

DRUGS AND CONTROLLED SUBSTANCES

- SB 724 Gives advanced practice registered nurses prescriptive authority for scheduled drugs

DRUNK DRIVING/BOATING

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
HB 1715 Modifies various provisions relating to the Water Patrol and watercraft regulations

EASEMENTS AND CONVEYANCES

- SB 1033 Prohibits water or sewer line easements from being considered transfers of title of real property to counties and other political subdivisions

ECONOMIC DEVELOPMENT

- SB 718 Modifies provisions of certain tax credit programs administered by the Department of Economic Development
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- SB 1131 Excludes tax revenues, derived from certain transportation sales taxes imposed by the City of Kansas City, from tax increment finance economic activity taxes used to pay redevelopment costs
- HB 2058 Provides tax incentives for business development
- HB 2393 Modifies provisions of the enhanced enterprise tax benefit program

ECONOMIC DEVELOPMENT DEPARTMENT

- SB 718 Modifies provisions of certain tax credit programs administered by the Department of Economic Development
- HB 1419 Modifies the law relating to licensed massage therapists
- HB 1791 Designates licensed professional counselors as mental health professionals in certain circumstances
- HB 2058 Provides tax incentives for business development
- HB 2393 Modifies provisions of the enhanced enterprise tax benefit program

EDUCATION, ELEMENTARY AND SECONDARY

- SB 839 Modifies adjustment to funds payable resulting from transfer of title to real property for certain school districts
- SB 1066 Modifies provisions relating to elementary and secondary education
- SB 1170 Creates the Rebuild Missouri Schools Program and allows education boards to enter into lease-purchase agreements with twenty-five successive options
- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
- HB 1678 Modifies various laws relating to members of the military and their families
- HB 1807 Changes the name of the State Schools for Severely Handicapped Children to Missouri Schools for the Severely Disabled.
- HB 2191 Modifies provisions relating to higher education scholarships
- HB 2213 Requires the Governor to annually issue a proclamation declaring the second week of September as Parent and Family Involvement in Education Week

EDUCATION, HIGHER

- SB 830 Limits the tuition that may be charged by a higher education institution to certain combat veterans
- SB 863 Allows married taxpayers filing joint returns to deduct a portion of contributions to the Missouri Higher Education Savings Program from income and provides similar tax treatment for other qualified tuition savings programs
- SB 873 Provides for a voting student curator on the University of Missouri board of curators if Missouri loses a congressional district based on the 2010 census
- SB 967 Allows Missouri Higher Education Loan Authority to originate federally guaranteed student loans under certain conditions.
- HB 1368 Modifies membership requirements for the Northwest Missouri State University Board of Regents
- HB 1869 Requires the Missouri Revisor of Statutes to change all references of the term "junior college" to "community college" in the Revised Statutes of Missouri
- HB 2048 Creates the Textbook Transparency Act requiring textbook publishers to provide certain information to higher education institutions

ELDERLY

- SB 720 Modifies provisions relating to utilities
HB 1380 Authorizes allocation of property taxes to senior center
HB 2036 Repeals the formula distribution requirements for additional funding for certain services for the elderly

ELECTIONS

- SB 1038 Repeals campaign contribution limits and modifies reporting requirements
HB 1311 Imposes certain requirements on write-in candidates for municipal office

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

- SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
SB 839 Modifies adjustment to funds payable resulting from transfer of title to real property for certain school districts
SB 1066 Modifies provisions relating to elementary and secondary education
HB 1678 Modifies various laws relating to members of the military and their families
HB 1807 Changes the name of the State Schools for Severely Handicapped Children to Missouri Schools for the Severely Disabled.
HB 2191 Modifies provisions relating to higher education scholarships
HB 2213 Requires the Governor to annually issue a proclamation declaring the second week of September as Parent and Family Involvement in Education Week

EMBLEMS

- SB 991 Establishes the ice cream cone as the official state dessert

EMERGENCIES

- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
SB 951 Modifies the law relating to emergency response within financial institutions
SB 1039 Modifies minimum volunteer ambulance staffing requirements and requires Christian County to appoint an emergency services board upon voter approval of a county sales tax for central dispatching of emergency services
HB 1450 Modifies the law relating to terrorism

EMPLOYEES - EMPLOYERS

- SB 718 Modifies provisions of certain tax credit programs administered by the Department of Economic Development
HB 1883 Modifies various laws relating to employment
HB 2233 Bars certain individuals from advocating for political appointments
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EMPLOYMENT SECURITY

HB 2041 Modifies provisions relating to unemployment compensation

ENERGY

SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation

ENTERTAINMENT, SPORTS AND AMUSEMENTS

HB 1341 Requires owners of for-profit swimming pools to maintain adequate liability insurance in the event of injury or death of a patron

ENVIRONMENTAL PROTECTION

SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment
SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
HB 1469 Modifies the law regarding certain environmental appeals transferred to the Administrative Hearing Commission
HB 1670 Removes the requirement for certification by the Department of Natural Resources before a sales and use tax exemption applies to the purchase or lease of certain items used to monitor water and air pollution

ESTATES, WILLS AND TRUSTS

SB 1235 Modifies provisions related to a trustee's powers under the Missouri Uniform Trust Code

FAMILY LAW

HB 1570 Adds services of guardian ad litem to the priority list of services for which moneys in the family services and justice fund shall be spent
HB 1640 Provides for exceptions to the requirement for issuing a new birth certificate following adoption

FEDERAL - STATE RELATIONS

SB 1016 Provides that a portion of the tort victims' compensation fund shall be transferred to the basic civil legal services fund
HB 1422 Authorizes the State Highways and Transportation Commission to take the necessary steps to implement and administer a state plan to conform with the Unified Carrier Registration Act of 2005
HB 1549 Modifies the law relating to illegal immigrants
HB 2041 Modifies provisions relating to unemployment compensation

FEES

- SB 1016 Provides that a portion of the tort victims' compensation fund shall be transferred to the basic civil legal services fund
- SB 1150 Extends the sunset provisions for fees to be credited to the technology trust fund
- HB 1570 Adds services of guardian ad litem to the priority list of services for which moneys in the family services and justice fund shall be spent

FIRE PROTECTION

- SB 979 Terminates eligibility for surviving spouse of public safety officer income tax credit upon remarriage
- HB 1883 Modifies various laws relating to employment

FIREARMS AND FIREWORKS

- HB 2034 Modifies various provisions relating to weapons

GENERAL ASSEMBLY

- SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
- HB 1450 Modifies the law relating to terrorism
- HB 1869 Requires the Missouri Revisor of Statutes to change all references of the term "junior college" to "community college" in the Revised Statutes of Missouri
- HB 2036 Repeals the formula distribution requirements for additional funding for certain services for the elderly

GOVERNOR & LT. GOVERNOR

- SB 806 Requires all government buildings to fly the U.S. and Missouri flags at half-staff when any Missouri resident is killed in combat
- HB 2213 Requires the Governor to annually issue a proclamation declaring the second week of September as Parent and Family Involvement in Education Week

HEALTH CARE

- SB 1139 Revises the Uniform Anatomical Gift Act
- HB 1790 Modifies provisions relating to municipal health care facilities and hospital designations

HEALTH CARE PROFESSIONALS

- SB 1044 Modifies provisions regarding minimum ambulance staffing for ambulances staffed with volunteers
- SB 1139 Revises the Uniform Anatomical Gift Act
- SB 1177 Designates licensed professional counselors as mental health professionals in certain circumstances
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- HB 1790 Modifies provisions relating to municipal health care facilities and hospital designations
- HB 1791 Designates licensed professional counselors as mental health professionals in certain circumstances

HEALTH DEPARTMENT

- SB 1177 Designates licensed professional counselors as mental health professionals in certain circumstances
- HB 1790 Modifies provisions relating to municipal health care facilities and hospital designations
- HB 1791 Designates licensed professional counselors as mental health professionals in certain circumstances

HEALTH, PUBLIC

- SB 1139 Revises the Uniform Anatomical Gift Act

HIGHER EDUCATION DEPARTMENT

- SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
- SB 830 Limits the tuition that may be charged by a higher education institution to certain combat veterans
- HB 1368 Modifies membership requirements for the Northwest Missouri State University Board of Regents
- HB 1869 Requires the Missouri Revisor of Statutes to change all references of the term "junior college" to "community college" in the Revised Statutes of Missouri
- HB 2048 Creates the Textbook Transparency Act requiring textbook publishers to provide certain information to higher education institutions

HIGHWAY PATROL

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles

HOSPITALS

- HB 1790 Modifies provisions relating to municipal health care facilities and hospital designations

HOUSING

- SB 1009 Modifies the current legal requirement that funds conveyed to settlement agents in real estate closings be certified funds
- HB 2188 Creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime

IMMIGRATION

HB 1549 Modifies the law relating to illegal immigrants

INSURANCE - GENERAL

SB 1168 Revises the formula for computing a refund for credit insurance
HB 1341 Requires owners of for-profit swimming pools to maintain adequate liability insurance in the event of injury or death of a patron
HB 1690 Enacts various provisions relating to the transmission of insurance-related information
HB 1893 Changes the requirements for premium refund calculations on credit insurance

INSURANCE - PROPERTY

SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment
HB 1341 Requires owners of for-profit swimming pools to maintain adequate liability insurance in the event of injury or death of a patron

INSURANCE DEPARTMENT

SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
SB 788 Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration by type III transfer
HB 1690 Enacts various provisions relating to the transmission of insurance-related information
HB 1893 Changes the requirements for premium refund calculations on credit insurance

INTERSTATE COOPERATION

HB 1678 Modifies various laws relating to members of the military and their families

KANSAS CITY

SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses
SB 801 Increases the maximum amount of compensation which the Kansas City Board of Police Commissioners may pay officers
SB 980 Modifies provisions regarding supplemental and disability retirement benefits for Kansas City police officers and civilian employees
SB 1131 Excludes tax revenues, derived from certain transportation sales taxes imposed by the City of Kansas City, from tax increment finance economic activity taxes used to pay redevelopment costs
HB 1710 Modifies provisions regarding supplemental and disability retirement for Kansas City police officers and civilian employees

LABOR AND INDUSTRIAL RELATIONS DEPARTMENT

- HB 1689 Transfers the Governor's Council on Disability from the Department of Labor and Industrial Relations to the Office of Administration
- HB 2041 Modifies provisions relating to unemployment compensation

LAW ENFORCEMENT OFFICERS AND AGENCIES

- SB 714 Modifies various provisions relating to sexual offenses
- SB 733 Requires crime laboratories providing reports or testimony to a state court to be accredited by 2012
- SB 801 Increases the maximum amount of compensation which the Kansas City Board of Police Commissioners may pay officers
- SB 932 Modifies peace officer continuing education requirements regarding racial profiling and creates the "Cyber Crime Investigation Fund" to be used solely for the administration of the cyber crime investigation grant program
- SB 979 Terminates eligibility for surviving spouse of public safety officer income tax credit upon remarriage
- SB 980 Modifies provisions regarding supplemental and disability retirement benefits for Kansas City police officers and civilian employees
- HB 1384 Modifies certain provisions relating to protection of consumers against fraudulent practices
- HB 1549 Modifies the law relating to illegal immigrants
- HB 1710 Modifies provisions regarding supplemental and disability retirement for Kansas City police officers and civilian employees
- HB 2047 Changes the law regarding street grading in cities with over 300,000 inhabitants and allows certain counties of the third classification to impose a tax on agricultural and horticultural land, upon voter approval, for purchasing road rock
- HB 2224 Modifies various provisions relating to law enforcement

LIABILITY

- SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment
- SB 958 Allows rural electric cooperatives to manage vegetation within specified areas to ensure reliable service
- HB 2047 Changes the law regarding street grading in cities with over 300,000 inhabitants and allows certain counties of the third classification to impose a tax on agricultural and horticultural land, upon voter approval, for purchasing road rock

LICENSES - DRIVER'S

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles

LICENSES - MOTOR VEHICLE

- SB 936 Allow motorists to operate vehicles without current registrations for the purpose of resetting emissions readiness monitors in order to pass emissions inspection retests
- HB 1354 Exempts self-propelled sprayers that are used for spraying chemicals or spreading fertilizer from complying with titling, registration and license plate display laws
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LICENSES - PROFESSIONAL

- SB 724 Gives advanced practice registered nurses prescriptive authority for scheduled drugs
- SB 788 Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration by type III transfer
- SB 850 Requires the board of optometry to give notice of its meetings
- SB 1177 Designates licensed professional counselors as mental health professionals in certain circumstances
- SB 1190 Authorizes the division of professional registration to reduce licensure fees by emergency rule under certain circumstances
- HB 1419 Modifies the law relating to licensed massage therapists
- HB 1791 Designates licensed professional counselors as mental health professionals in certain circumstances
- HB 2188 Creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime

MEDICAID

- SB 1068 Modifies provisions relating to pharmacies and pharmacists

MENTAL HEALTH

- SB 1081 Modifies provisions regarding quality assurance and safety in the Division of Mental Retardation and Developmental Disabilities Community Programs

MENTAL HEALTH DEPARTMENT

- SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
- SB 1081 Modifies provisions regarding quality assurance and safety in the Division of Mental Retardation and Developmental Disabilities Community Programs

MERCHANDISING PRACTICES

- SB 999 Allows the Attorney General to bring an action for unlawful merchandising practices when the name of a financial institution is deceptively used
- HB 1970 Limits civil actions against certain motor vehicle dealers

MILITARY AFFAIRS

- SB 806 Requires all government buildings to fly the U.S. and Missouri flags at half-staff when any Missouri resident is killed in combat
- SB 830 Limits the tuition that may be charged by a higher education institution to certain combat veterans
- HB 1575 Designates a portion of State Highway 87 in Moniteau County as the "Lance Corporal Leon B. Deraps Memorial Highway"
- HB 1678 Modifies various laws relating to members of the military and their families
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MORTGAGES AND DEEDS

- HB 2188 Creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime

MOTOR CARRIERS

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
- HB 1422 Authorizes the State Highways and Transportation Commission to take the necessary steps to implement and administer a state plan to conform with the Unified Carrier Registration Act of 2005

MOTOR FUEL

- SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment
- HB 1628 Exempts historical vehicles powered by liquid petroleum or natural gas from the alternative fuel decal requirement and tax

MOTOR VEHICLES

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
- SB 936 Allow motorists to operate vehicles without current registrations for the purpose of resetting emissions readiness monitors in order to pass emissions inspection retests
- HB 1354 Exempts self-propelled sprayers that are used for spraying chemicals or spreading fertilizer from complying with titling, registration and license plate display laws
- HB 1422 Authorizes the State Highways and Transportation Commission to take the necessary steps to implement and administer a state plan to conform with the Unified Carrier Registration Act of 2005
- HB 1628 Exempts historical vehicles powered by liquid petroleum or natural gas from the alternative fuel decal requirement and tax
- HB 1970 Limits civil actions against certain motor vehicle dealers
- HB 2047 Changes the law regarding street grading in cities with over 300,000 inhabitants and allows certain counties of the third classification to impose a tax on agricultural and horticultural land, upon voter approval, for purchasing road rock

NATIONAL GUARD

- HB 1678 Modifies various laws relating to members of the military and their families

NATURAL RESOURCES DEPARTMENT

- SJR 45 Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control
- SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment
- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
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- SB 936 Allow motorists to operate vehicles without current registrations for the purpose of resetting emissions readiness monitors in order to pass emissions inspection retests
- SB 1040 Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control
- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation

NURSES

- SB 724 Gives advanced practice registered nurses prescriptive authority for scheduled drugs

OPTOMETRY

- SB 850 Requires the board of optometry to give notice of its meetings

PHARMACY

- SB 1068 Modifies provisions relating to pharmacies and pharmacists

PHYSICIANS

- SB 1139 Revises the Uniform Anatomical Gift Act
- HB 1790 Modifies provisions relating to municipal health care facilities and hospital designations

PLANNING AND ZONING

- SB 1002 Modifies the penalties for certain zoning violations
- HB 1849 Modifies the penalties for certain zoning violations
- HB 2233 Bars certain individuals from advocating for political appointments

POLITICAL SUBDIVISIONS

- SB 711 Modifies provisions regarding property taxation
- SB 939 Modifies various provisions relating to levee and drainage districts
- SB 1033 Prohibits water or sewer line easements from being considered transfers of title of real property to counties and other political subdivisions
- SB 1235 Modifies provisions related to a trustee's powers under the Missouri Uniform Trust Code
- HB 1380 Authorizes allocation of property taxes to senior center
- HB 1883 Modifies various laws relating to employment
- HB 1888 Allows a municipality to annex land within the airport zone of the City of Springfield if it agrees to enforce Springfield's zoning ordinance

PROBATION AND PAROLE

- SB 979 Terminates eligibility for surviving spouse of public safety officer income tax credit upon remarriage
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PROPERTY, REAL AND PERSONAL

- SB 711 Modifies provisions regarding property taxation
SB 748 Requires property taxes paid by certain non-resident taxpayers to be added-back to adjusted gross income
HB 2058 Provides tax incentives for business development

PSYCHOLOGISTS

- HB 2065 Modifies the law relating to licensed psychologists

PUBLIC ASSISTANCE

- SB 720 Modifies provisions relating to utilities
HB 1946 Modifies provisions relating to adoption subsidies and youth development programs

PUBLIC BUILDINGS

- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
HB 1784 Requires any American or Missouri flag flown on state property to be manufactured in the United States

PUBLIC OFFICERS

- SB 711 Modifies provisions regarding property taxation
SB 1038 Repeals campaign contribution limits and modifies reporting requirements
HB 2233 Bars certain individuals from advocating for political appointments

PUBLIC SAFETY DEPARTMENT

- SB 733 Requires crime laboratories providing reports or testimony to a state court to be accredited by 2012
SB 765 Modifies provisions relating to villages, alcohol regulations, consumer protection, and regulation of sexually oriented businesses
SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services
SB 932 Modifies peace officer continuing education requirements regarding racial profiling and creates the "Cyber Crime Investigation Fund" to be used solely for the administration of the cyber crime investigation grant program
HB 1341 Requires owners of for-profit swimming pools to maintain adequate liability insurance in the event of injury or death of a patron
HB 2224 Modifies various provisions relating to law enforcement

PUBLIC SERVICE COMMISSION

- SB 720 Modifies provisions relating to utilities
SB 958 Allows rural electric cooperatives to manage vegetation within specified areas to ensure reliable service
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- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
- HB 1426 Removes the requirement that the Missouri Public Service Commission issue an annual economic impact report on certain telecommunication laws
- HB 1779 Modifies laws regarding underground facilities and telecommunications services

RAILROADS

- HB 1779 Modifies laws regarding underground facilities and telecommunications services

RETIREMENT - LOCAL GOVERNMENT

- HB 1710 Modifies provisions regarding supplemental and disability retirement for Kansas City police officers and civilian employees

RETIREMENT SYSTEMS AND BENEFITS - GENERAL

- SB 980 Modifies provisions regarding supplemental and disability retirement benefits for Kansas City police officers and civilian employees

REVENUE DEPARTMENT

- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
- HB 1354 Exempts self-propelled sprayers that are used for spraying chemicals or spreading fertilizer from complying with titling, registration and license plate display laws
- HB 1628 Exempts historical vehicles powered by liquid petroleum or natural gas from the alternative fuel decal requirement and tax
- HB 1670 Removes the requirement for certification by the Department of Natural Resources before a sales and use tax exemption applies to the purchase or lease of certain items used to monitor water and air pollution
- HB 1828 Requires the Director of the Department of Revenue to establish and enforce reasonable sales and use tax rules and regulations

ROADS AND HIGHWAYS

- SB 753 Designates certain stretches of highway after law enforcement or military personnel
- SB 896 Modifies the methods in which certain special road districts may form, expand or dissolve within fourth class counties
- HB 1354 Exempts self-propelled sprayers that are used for spraying chemicals or spreading fertilizer from complying with titling, registration and license plate display laws
- HB 1575 Designates a portion of State Highway 87 in Moniteau County as the "Lance Corporal Leon B. Deraps Memorial Highway"
- HB 1887 Designates a portion of State Highway 13 in Polk County as the "Rick Seiner Memorial Highway"
- HB 1952 Designates a bridge in Maries County as the "Roy Bassett Memorial Bridge"
- HB 2360 Designates a portion of Highway 169 in Gentry County as the "Mo. Hwy. Patrol Corporal Henry C. Bruns Memorial Highway"
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SAINT LOUIS

HB 2058 Provides tax incentives for business development

SCIENCE AND TECHNOLOGY

SB 818 Modifies various provisions relating to stalking and harassment

SECRETARY OF STATE

SB 956 Modifies provisions relating to public water supply districts

SB 1150 Extends the sunset provisions for fees to be credited to the technology trust fund

HB 1311 Imposes certain requirements on write-in candidates for municipal office

SEWERS AND SEWER DISTRICTS

SB 1033 Prohibits water or sewer line easements from being considered transfers of title of real property to counties and other political subdivisions

SOCIAL SERVICES DEPARTMENT

SB 720 Modifies provisions relating to utilities

SB 768 Creates the Missouri Commission on Autism Spectrum Disorders and the Office of Autism Services

SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation

HB 1946 Modifies provisions relating to adoption subsidies and youth development programs

HB 2036 Repeals the formula distribution requirements for additional funding for certain services for the elderly

SOVEREIGN OR OFFICIAL IMMUNITY

HB 2047 Changes the law regarding street grading in cities with over 300,000 inhabitants and allows certain counties of the third classification to impose a tax on agricultural and horticultural land, upon voter approval, for purchasing road rock

STATE DEPARTMENTS

HB 1313 Requires the state and political subdivisions to favor service disabled veteran businesses when letting contracts

STATE TAX COMMISSION

SB 711 Modifies provisions regarding property taxation

TAX CREDITS

SB 718 Modifies provisions of certain tax credit programs administered by the Department of Economic Development

- HB 2058 Provides tax incentives for business development
HB 2393 Modifies provisions of the enhanced enterprise tax benefit program

TAXATION AND REVENUE - GENERAL

- SB 931 Modifies provisions pertaining to the administration of agriculture incentives and programs
SB 1081 Modifies provisions regarding quality assurance and safety in the Division of Mental Retardation and Developmental Disabilities Community Programs
HB 1311 Imposes certain requirements on write-in candidates for municipal office
HB 1628 Exempts historical vehicles powered by liquid petroleum or natural gas from the alternative fuel decal requirement and tax
HB 2058 Provides tax incentives for business development
HB 2393 Modifies provisions of the enhanced enterprise tax benefit program

TAXATION AND REVENUE - INCOME

- SB 748 Requires property taxes paid by certain non-resident taxpayers to be added-back to adjusted gross income
SB 863 Allows married taxpayers filing joint returns to deduct a portion of contributions to the Missouri Higher Education Savings Program from income and provides similar tax treatment for other qualified tuition savings programs
SB 979 Terminates eligibility for surviving spouse of public safety officer income tax credit upon remarriage
SB 1105 Creates an income tax check-off for contributions to the breast cancer awareness trust fund
HB 2058 Provides tax incentives for business development

TAXATION AND REVENUE - PROPERTY

- SB 711 Modifies provisions regarding property taxation
SB 748 Requires property taxes paid by certain non-resident taxpayers to be added-back to adjusted gross income
SB 939 Modifies various provisions relating to levee and drainage districts
HB 1380 Authorizes allocation of property taxes to senior center
HB 2058 Provides tax incentives for business development
HB 2393 Modifies provisions of the enhanced enterprise tax benefit program

TAXATION AND REVENUE - SALES AND USE

- SB 1073 Creates a state and local sales and use tax exemption for defense articles sold to foreign governments
SB 1131 Excludes tax revenues, derived from certain transportation sales taxes imposed by the City of Kansas City, from tax increment finance economic activity taxes used to pay redevelopment costs
SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
HB 1670 Removes the requirement for certification by the Department of Natural Resources before a sales and use tax exemption applies to the purchase or lease of certain items used to monitor water and air pollution
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- HB 1828 Requires the Director of the Department of Revenue to establish and enforce reasonable sales and use tax rules and regulations
- HB 2058 Provides tax incentives for business development

TELECOMMUNICATIONS

- HB 1426 Removes the requirement that the Missouri Public Service Commission issue an annual economic impact report on certain telecommunication laws
- HB 1779 Modifies laws regarding underground facilities and telecommunications services

TRANSPORTATION

- SB 896 Modifies the methods in which certain special road districts may form, expand or dissolve within fourth class counties
- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
- SB 1131 Excludes tax revenues, derived from certain transportation sales taxes imposed by the City of Kansas City, from tax increment finance economic activity taxes used to pay redevelopment costs
- HB 1575 Designates a portion of State Highway 87 in Moniteau County as the "Lance Corporal Leon B. Deraps Memorial Highway"
- HB 1715 Modifies various provisions relating to the Water Patrol and watercraft regulations

TRANSPORTATION DEPARTMENT

- SB 753 Designates certain stretches of highway after law enforcement or military personnel
- SB 930 Modifies various provisions relating to the regulation of transportation and the regulation of motor vehicles
- HB 1422 Authorizes the State Highways and Transportation Commission to take the necessary steps to implement and administer a state plan to conform with the Unified Carrier Registration Act of 2005
- HB 1575 Designates a portion of State Highway 87 in Moniteau County as the "Lance Corporal Leon B. Deraps Memorial Highway"
- HB 1887 Designates a portion of State Highway 13 in Polk County as the "Rick Seiner Memorial Highway"
- HB 1952 Designates a bridge in Maries County as the "Roy Bassett Memorial Bridge"
- HB 2360 Designates a portion of Highway 169 in Gentry County as the "Mo. Hwy. Patrol Corporal Henry C. Bruns Memorial Highway"

TREASURER, STATE

- SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation

UNIFORM LAWS

- SB 1139 Revises the Uniform Anatomical Gift Act

UTILITIES

- SB 720 Modifies provisions relating to utilities
SB 958 Allows rural electric cooperatives to manage vegetation within specified areas to ensure reliable service
SB 1181 Modifies and creates provisions pertaining to energy efficiency and energy regulation
HB 1426 Removes the requirement that the Missouri Public Service Commission issue an annual economic impact report on certain telecommunication laws
HB 1779 Modifies laws regarding underground facilities and telecommunications services

VETERANS

- SB 806 Requires all government buildings to fly the U.S. and Missouri flags at half-staff when any Missouri resident is killed in combat
HB 1313 Requires the state and political subdivisions to favor service disabled veteran businesses when letting contracts
HB 1575 Designates a portion of State Highway 87 in Moniteau County as the "Lance Corporal Leon B. Deraps Memorial Highway"

VITAL STATISTICS

- HB 1640 Provides for exceptions to the requirement for issuing a new birth certificate following adoption

WASTE - HAZARDOUS

- SB 907 Modifies provisions pertaining to motor fuel storage tanks and equipment

WATER PATROL

- SB 1187 Removes the ninety-nine member cap on the Water Patrol membership
HB 1715 Modifies various provisions relating to the Water Patrol and watercraft regulations

WATER RESOURCES AND WATER DISTRICTS

- SJR 45 Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control
SB 956 Modifies provisions relating to public water supply districts
SB 1033 Prohibits water or sewer line easements from being considered transfers of title of real property to counties and other political subdivisions
SB 1040 Modifies requirements relating to the issuance of grants and loans by the Department of Natural Resources for storm water control
HB 1881 Changes the length of the term of office for the initially appointed directors of public water supply districts

WEAPONS

- HB 2034 Modifies various provisions relating to weapons
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